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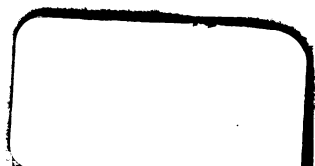
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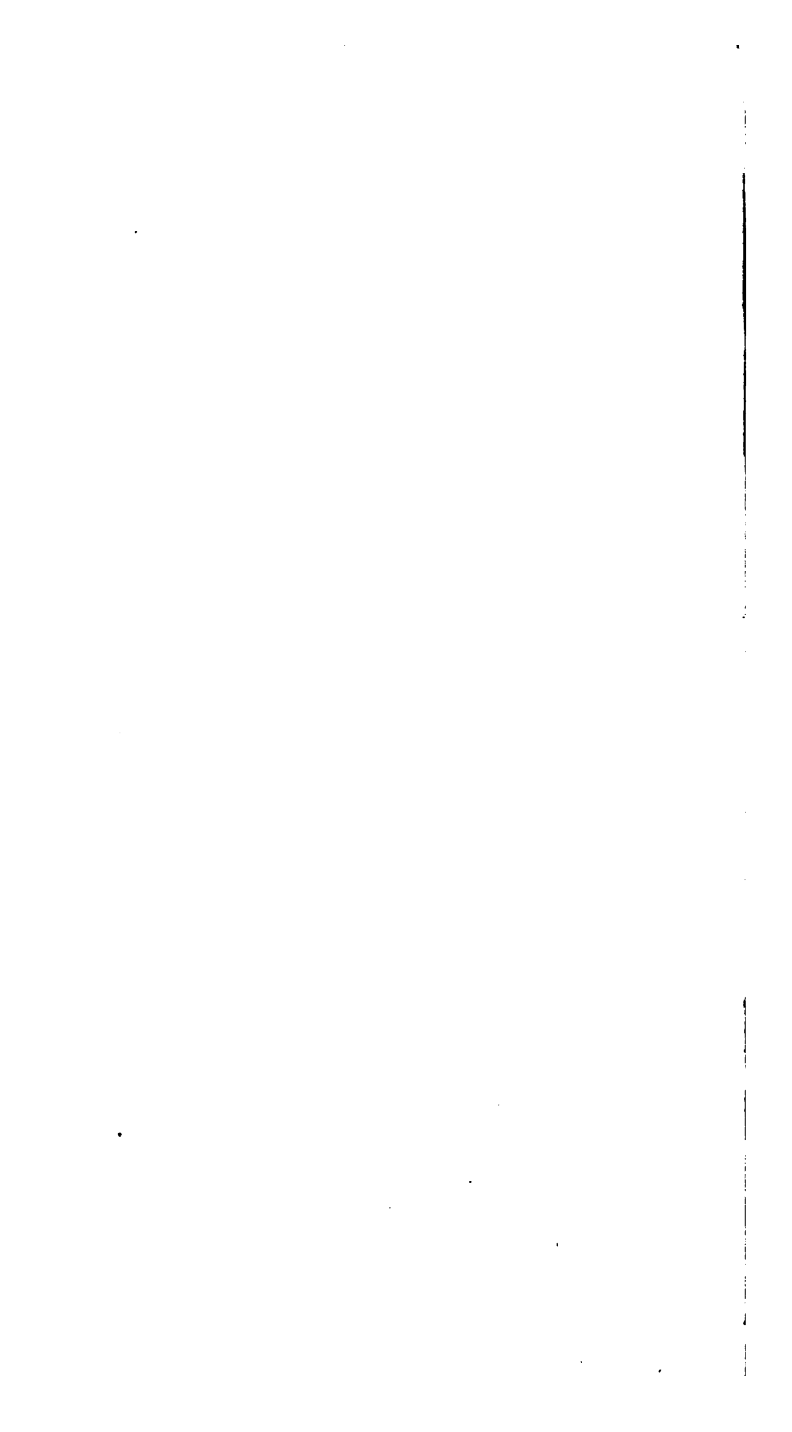


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THE  
Criminal Law Consolidation  
STATUTES.

24 & 25 VICT. cc. 94—100.

*Preparing for Publication.*

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A  
TREATISE  
ON THE LAW OF  
CRIMINAL PROCEDURE,

BY  
JAMES EDWARD DAVIS, ESQ.,  
BARRISTER-AT-LAW,

AND  
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*C. G. Newstead*  
*4t. Brit. Law, Temple*  
*statutes, etc.*  
**THE**  
*1837-1901 (Victoria)*

**Criminal Law Consolidation**  
**STATUTES**

OF THE  
24 & 25 OF VICTORIA, CHAPTERS 94 TO 100.

EDITED

WITH NOTES, CRITICAL AND EXPLANATORY,

BY

**JAMES EDWARD DAVIS, Esq.,**

OF THE MIDDLE TEMPLE, BARRISTER-AT-LAW.

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## INTRODUCTION.

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THE Criminal Law Consolidation Acts of 1861 were introduced as bills into the House of Lords, in 1860, and passed through a Select Committee. As there was not sufficient time to get them through the House of Commons during the same session, they were withdrawn, and re-introduced into the Lower House at the commencement of the last session, and after a second reading they were referred to a Select Committee. Having passed through the House of Commons with few amendments involving matters of principle, and consequently being sent to the House of Lords nearly in the state in which the bills of the previous session had left it, they were permitted to pass through that House almost *pro formâ*, and received the Royal Assent on the 6th of August, and they come into operation on the 1st of November next.

These statutes may be regarded as the first fruits of the repeated efforts by Commissions and otherwise during the last thirty years, to effect a consolidation of the Criminal Law of this country. Nevertheless, to treat these Acts as a consolidation of the Criminal Law would be incorrect, and also unfair to the able hands entrusted with the duty

of framing them. They do not consolidate the Criminal Law, nor do they attempt to do so. Offences against the state (except so far as regards the coinage), offences against public justice, including perjury, and many offences against the public peace and morals, comprising the laws relating to game, libel, fraudulent bankrupts, gaming, smuggling, together with a variety of other crimes and misdemeanors, are not touched. Above all, the law relating to Criminal Procedure is left unconsolidated.

The scope of the New Acts is indicated by their titles. They comprise the Statute Law relating to larceny and other similar offences—to malicious injuries to property, and to offences against the person; to which are added indictable offences by forgery, and offences relating to the coin. And notwithstanding the title of the Acts might lead to the supposition that the whole of the law on these particular subjects has been consolidated and amended, an examination of them demonstrates that no such intention even existed in the mind of the draughtsman. For example, in the Larceny Act, although there are several clauses under the general head of “larceny or embezzlement, by clerks, servants, or persons in the public service,” where of course, if it had been desired, the stealing of money letters by clerks and letter carriers might and would have been introduced, those offences are omitted.

The new Criminal Acts are, in fact, new editions



of "Peel's Acts," embodying the subsequent legislation relating to the subjects of those particular statutes. Thus, the ground work of the Larceny Act, the Malicious Injuries Act, and the Offences against the Person Act, are the Acts 7 & 8 Geo. 4, cc. 29 and 30, and the 9 Geo. 4, c. 31, respectively, and bear the same titles of Consolidation and Amendment. In like manner the Forgery Act is chiefly based on the 11 Geo. 4 & 1 Will. 4, c. 66; and the Act relating to the coin bears the same title, and follows in its main provisions the 2 Will. 4, c. 34. Of the two other new Acts, the one, relating to accessories and abettors, collects the scattered provisions on the subject to be found in "Peel's Acts" and subsequent statutes, and the other repeals the old provisions embodied in the new statutes.

In thus indicating the scheme of the new statutes, it must not be supposed that the amount of labour involved in their preparation is undervalued. In no plan for the consolidation of the Criminal Law, however extensive, could the very valuable and admirably drawn provisions of "Peel's Acts" be properly treated otherwise than as the foundation of legislation upon the subjects to which they relate. So far as the definition of offences is concerned they were all that could be desired at the time, and even down to the present moment have sufficed to meet the general requirements of society. Still, the progress of commerce and science on the one hand, and the ingenuity of crime on the other, from time to time called for

the interference of the legislature, by extending the scope of particular portions of these Acts. The principal changes, however, had been, not so much in the definition of crimes, as in the punishments awarded to them. The gradual contraction of capital punishments, and the substitution of transportation for life, and—as a necessary consequence for the preservation of a due distinction in the enormity of offences—a corresponding reduction of offences previously punishable with transportation for life, to transportation for a term of years; the abolition of transportation for simple larceny and offences punishable as simple larceny; the introduction of penal servitude; and lastly, the cessation of transportation altogether; had so complicated the statute law that it was a work of considerable difficulty in many cases to ascertain the existing limits of punishment for each offence.

The crime of horse-stealing may be taken as a fair illustration, and by no means the most complicated. What is the punishment for horse-stealing at this moment, that is to say, before the new Acts come into operation? Answer. Penal servitude for not more than fifteen or not less than three years, or imprisonment not exceeding two years, with or without hard labour. Question. How is that shown? Answer. The 7 & 8 Geo. 4, c. 29, enacts, that if any person shall steal any horse, he shall suffer death as a felon. By the 2 & 3 Will. 4, c. 62, the punishment of death was abolished, and transportation for life was substituted for this and other offences. By the 7 Will. 4 & 1 Vict. c.

90, s. 1, so much of the 2 & 3 Will. 4, c. 62, as related to the punishment of persons convicted of offences for which they were liable, under that Act, to be transported for life, was repealed, and transportation for fifteen or not less than ten years, or imprisonment not exceeding three years, was substituted. Then the 9 & 10 Vict. c. 24, s. 1, enacted, that in all cases where the court was empowered or required to award a sentence of transportation exceeding seven years, it should be lawful to award a sentence of transportation for not less than seven years, or imprisonment not exceeding two years, with or without hard labour. Then by the 16 & 17 Vict. c. 99, transportation for not less than fourteen years was abolished, and certain sentences of penal servitude authorized instead. Those provisions, however, were repealed by the 20 & 21 Vict. c. 3, s. 1, which abolished transportation, and substituted penal servitude for the same term of years, with a proviso that in any case in which sentence of seven years' transportation might have been passed, it should be lawful for the court in its discretion to pass a sentence of penal servitude of not less than three years. As this proviso applied to horse-stealing in consequence of the statute 9 & 10 Vict. c. 24, it follows that the punishment for horse-stealing is penal servitude not exceeding fifteen and not less than three years, or imprisonment not exceeding two years. Q. E. D.

To get rid of this long story, by placing the proper sentence in juxtaposition with the particular

offence is no slight benefit conferred by the new statutes, and is, in fact, one of their two leading features, the other being the consolidation and assimilation of the laws for Ireland with those of England, of which both countries will reap the advantage. These two leading points have been carried out with great care, accompanied at the same time with a desire to incorporate under their proper heads not only all the legislation between the passing of "Peel's Acts" and the present time, but such additional words and clauses as may meet points which have arisen in the Court of Criminal Appeal and elsewhere.

Nevertheless, the Acts even as regards punishment are not a mere reflex of the existing law, but in the amelioration of punishments afford matter of interest to society at large.

Even "Peel's Acts," which in their turn exhibited a great contrast to previous statutes, and were passed long subsequent to the exertions and triumphs of Sir Samuel Romilly, strike us now as written in blood. We can scarcely credit that, for stealing a lamb, a man forfeited his right to life, and that, too, under a code framed within our own memory and experience, and with the express object of reducing capital punishments.

But if we are shocked at the retrospect, we may be well excused for starting at the prospect before us, the emotion arising from the same cause, a respect for life, but occasioned by an opposite state of things.

Among the few capital offences hitherto retained has been the crime of burglary, accompanied by wounding; and certainly if there be any offence, short of actual murder, for which a man forfeits his right to existence as a member of a civilized state, it is a crime of that fearful character. The crime, however, and with it, as a consequence, the punishment, has been removed from the statute book. Burglary, with or without personal violence, nay even accompanied by an attempt to murder, is now all one in the eye of the law; and actual murder is the only offence in these statutes for which the punishment of death is retained, and burglary in its mildest form is punishable by the severest sentence short of death, penal servitude for life; hence the abolition of the distinction.

The general reduction in the scale of punishment for certain classes of offence, leaving others in their previous state, causes some apparent paradoxes in the law. Thus, if three men agree to murder a gamekeeper, and make arrangements for that purpose, and even lie in wait for him in his master's woods at night with fire-arms and are then discovered and apprehended, their offence is less in the eye of the law than if they went to the same spot for the purpose of killing rabbits, armed with offensive weapons, and ran away the moment the keeper approached. The extreme punishment for the former offence as a conspiracy to murder is, under the 24 & 25 Vict. c. 100, s. 4, ten years' penal servitude; for the latter, as constituting

night poaching, fourteen years' penal servitude may be imposed (a).

The answer to such cases is, that in the administration of the law the well-exercised discretion of the Judges prevents any such inconsistency actually occurring; and it may be that this answer is quite sufficient. Still the legislature, only a few years ago, was impressed with the belief, and a great deal of legislation took place upon the assumption, that persons embarking upon or engaged in the more serious classes of offences should be aware of the great distinction which the law itself—and not merely the administrators of that law—made between crimes perpetrated without personal violence and those accompanied by personal injury; that a burglar, for instance, should be aware as a matter of positive law, that he must receive a greater punishment if on breaking into a house he wounds any of the inmates.

These questions, however, involve a wider field for discussion than can be entered upon here. Bentham's distinction between the province of the Expositor and of the Censor must not be forgotten, and the topic may be left with the sole further remark, that it is singular the consolidation statutes should have passed into law without call-

(a) It is right to state that the apparent anomaly in this particular instance does not originate, so far as England is concerned, with the recent statute, for hitherto conspiracy to murder has there been only a common law misdemeanor. The statutable offence (capital in Ireland) has been now extended to England, as a misdemeanor, and the punishment reduced as stated in the text.

ing forth any expression of opinion in either House of Parliament, upon points undoubtedly involving principles of considerable public importance.

Returning to a closer examination of the new statutes, it may be observed that the few instances pointed out in the notes where there is an apparent deviation in the Acts themselves from the consistency of punishments awarded, are chiefly attributable to alterations made subsequently to the introduction of the bills. Penal servitude, for example, for simple larceny, was not contemplated by the framer of the Larceny Acts, and its introduction has caused some incongruity.

It is due also to the draughtsman to state, that efforts have been made to establish a systematic classification, one of the great stumbling-blocks in legislative as well as natural science. This has led in one instance to the separation, into different statutes, of the same offence, arising from different motives. By the 14 & 15 Vict. c. 19, s. 6, the wilfully and maliciously placing wood or stones on railways, or displacing rails or turning points, with intent to obstruct, upset or destroy any engine, &c., or to endanger the safety of any person, was made a felony. The new Malicious Injuries Act, 24 & 25 Vict. c. 97, s. 35, confines the offence to the former branch—the intent to obstruct the property; and then a corresponding section is introduced into the Act relating to Offences against the Person (24 & 25 Vict. c. 100, s. 32), to meet

the other intent. Still as the overt act is the same, the two provisions must, for practical purposes, be considered together, and every indictment for a felonious obstruction ought to contain counts to meet either intent.

On the other hand, the limited object in view has led to the retention in the Consolidation Acts of a class of offences, which undoubtedly range rather with the Game laws than with larceny or similar offences. Setting snares for hares and rabbits, destroying fences where deer are kept, and fishing in private property, are all dealt with, and of course are not treated as larceny, or as if they resembled larceny, but as acts of trespass, punishable on summary conviction. The reason for their retention is of course, that they are to be found in "Peel's Acts," and that unless there was merely a partial repeal of the 7 & 8 Geo. 4, c. 29, it was absolutely necessary to deal with these offences. They obtained a place in "Peel's Acts" for similar reasons, and also because the general Game laws were then a vexed question, not ripe at that moment for legislation.

Perhaps, as the least of two evils, the best course on the present occasion would have been to leave these particular clauses unrepealed (a course adopted with numerous other statutes), to be embraced in some future consolidated statute relating to the Game laws. Be that as it may, they operate injuriously on the attempted systematic classification.



The great defect, however, apparent on the face of the new Acts, arises from the legislature taking a narrow range of action, and not accompanying these statutes with another statute for the consolidation and amendment of the law relating to Criminal Procedure. The want of it has led to a sad but almost necessary redundancy of expression. In the absence of one general bill, by which these and all other Acts, past and future, might be worked, it was essential to introduce a number of procedure sections; and in order to keep each Act distinct and independent one of another, sections having the same object have been inserted in each Act.

The venue for offences committed within the jurisdiction of the Admiralty may be referred to as an illustration. The same provision, in precisely the same terms, is repeated in four of the Acts, and in the fifth it is repeated in the same terms, with some addition, in consequence of the statute applying to Scotland, and in the sixth Act a similar clause applies to accessories. In a procedure Act one section of general application would of course have sufficed, not merely for these six statutes, but for all others. The same remark applies to several other sections, as to hard labour and other matters, and the result is, that in Acts avowedly passed to consolidate the law, fifty sections encumber the ground, where eight or ten would have answered the purpose.

The laudable object which the framer had in

view, of giving an independent operation to each statute, has moreover been defeated. In consequence of an important alteration in another procedure clause (sect. 116 of the Larceny Consolidation Act), made by the Committee of the House of Commons, its application from being confined to the particular Act, now extends to "any indictment" "for any offence," and that section now governs the procedure not only under the Malicious Injuries Act, but under all other Acts to which it can be applied. And in order to ascertain the procedure on the trial on a charge of *malicious damage* after a previous conviction, recourse must be had to an Act relating to *larceny*.

While, therefore, these statutes are to be regarded as of considerable value in the administration of criminal justice in reference to the objects contemplated by them, it is to be hoped that they will not be allowed to stand in the way of, or to protract, the ultimate Consolidation of the whole body of the statute law.

To show how far off we are from the accomplishment of the desired object, it is only necessary to glance at the repealing statute, the 24 & 25 Vict. c. 95. Although the schedule exhibits a goodly array of one hundred and six statutes, only twenty-six English statutes are wholly repealed, in exchange for seven more now added, and one of these seven extending to the length of 123 sections. The greater part of the scheduled statutes are brought out in their entirety to be

replaced on the shelves mutilated and distorted (*a*). Sections are torn out of some, in others sections or parts of sections comprise the whole of what is left, retaining scarcely a trace of their original features. The repeal varies in its quality as well as extent. We have some statutes partially repealed as to the whole, and others wholly repealed as to part. One of the foundation statutes of the present batch already referred to, the 2 Will. 4, c. 34, is significantly repealed "as to the united kingdom;" the truth being that it cannot be erased from the statute book, for its provisions remain in force in the colonies, having been applied to them by an intervening statute, the 16 & 17 Vict. c. 48. Confusion worse confounded!

Notwithstanding this disheartening spectacle, it is to be hoped that another session will not be permitted to elapse without a comprehensive Criminal Procedure Act, although such a measure must necessarily override some of the provisions of these Consolidation Acts.

In concluding these introductory observations a

(*a*) By way of compensation the slain are thrice slain. That unfortunate brat the 11th section of the 7 Will. 4 & 1 Vict. c. 85, giving power to convict of assaults where the crime charged included an assault against the person, after being the plague of judges, juries and counsel, was expressly repealed by the 14 & 15 Vict. c. 100. The other provisions of the 7 Will. 4 & 1 Vict. c. 85, being superseded by the Consolidation Acts, that statute was properly inserted in the schedule of the 24 & 25 Vict. c. 95, and repealed *in toto*. Notwithstanding this, sect. 11 is, deliberately and with malice aforethought, inserted in the subsequent statute of the last session, 24 & 25 Vict. c. 101 (The Statute Law Revision Act, 1861), and specifically repealed as having ceased to be in force otherwise than by express and specific repeal!

regret may be expressed that the claim of these statutes to be treated as part of a systematic Consolidation of the law, and their proper examination with that view, has been much weakened by an apparently very trifling act of carelessness at the last moment. The bills were introduced and considered in committee in the following order:—I. Offences against the Person. II. Larceny. III. Malicious Injuries to Property. IV. Forgery. V. Coin. VI. Accessories. Lastly. The Repeal of Statutes. But no arrangement having been preserved in the order in which they received the Royal Assent, they came out of the shuffling in strange confusion, with the Repealing Act, which ought to have been last, second, gravely reciting, “that by six several Acts of the present session of parliament” “divers Acts and parts of Acts have been consolidated and amended.” It is but a poor satisfaction to the draughtsman who has his attempt at symmetry practically defeated, and to the expositor of the statutes, who is in some measure compelled to deal with these statutes as he finds them, to be told that it is all a matter of mere form, and that in theory all the Acts of a session constitute but one statute.

One other defect of less although of some practical importance can be remedied in the hoped-for Procedure Act. The new statutes have no short titles given to them, that useful feature in most modern Acts of Parliament.

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*\* \* The sections and parts of sections within brackets [ ] denote those provisions of the statutes which are introduced for the first time.*

# CRIMINAL STATUTES.

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24 & 25 VICT. CAP. 94.

*An Act to consolidate and amend the Statute Law of England and Ireland relating to Accessories to and Abettors of indictable Offences.*

[6th August, 1861.]

**WHEREAS** it is expedient to consolidate and amend the statute law of England and Ireland relating to accessories to and abettors of indictable offences :  
Be it enacted by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal and commons in this present parliament assembled, and by the authority of the same, as follows :

As to accessories before the fact :

1. Whosoever shall become an accessory before the fact to any felony, whether the same be a felony at common law or by virtue of any act passed or to be passed, may be indicted, tried, convicted and punished in all respects as if he were a principal felon.

Accessories before the fact may be tried and punished as principals.

This section is framed on the 11 & 12 Vict. c. 46, s. 1. By the common law no accessory in the case of felony could be tried until after the complete conviction (see the note to

sect. 6, *post*) of the principal, the crime of the former being considered as dependent on the proved guilt of the latter. In treason and in all misdemeanors, accessories before the fact are treated as principals.

Accessories before the fact may be indicted as such, or as substantive felons.

2. Whosoever shall counsel, procure or command any other person to commit any felony, whether the same be a felony at common law or by virtue of any act passed or to be passed, shall be guilty of felony, and may be indicted and convicted either as an accessory before the fact to the principal felony, together with the principal felon, or after the conviction of the principal felon, or may be indicted and convicted of a substantive felony whether the principal felon shall or shall not have been previously convicted, or shall or shall not be amenable to justice, and may thereupon be punished in the same manner as any accessory before the fact to the same felony, if convicted as an accessory, may be punished.

Framed on the 7 Geo. 4, c. 64, s. 9; and the Irish Act, 9 Geo. 4, c. 54, s. 23. This section is practically merged in the more comprehensive terms of the first section; for one who procures, counsels or commands another to commit a crime, is within Lord Hale's definition of an accessory before the fact.

As to accessories after the fact :

Accessories after the fact may be indicted as such, or as substantive felons.

3. Whosoever shall become an accessory after the fact to any felony, whether the same be a felony at common law or by virtue of any act passed or to be passed, may be indicted and convicted either as an accessory after the fact to the principal felony, together with the principal felon, or after the conviction of the principal felon, or may be indicted and convicted of a substantive felony whether the principal felon shall or shall not have been previously convicted, or shall or shall not be amenable to justice, and may thereupon be punished in like



manner as any accessory after the fact to the same felony, if convicted as an accessory, may be punished.

Framed on the 11 & 12 Vict. c. 46, s. 2; previous to which last-mentioned statute an accessory after the fact to felony could be tried only along with the principal felon, or after the principal felon had been convicted, which, as the section recited, was "sometimes productive of a failure of justice."

4. [Every accessory after the fact to any felony (except where it is otherwise specially enacted), whether the same be a felony at common law or by virtue of any act passed or to be passed, shall be liable, at the discretion of the court, to be imprisoned in the common gaol or house of correction for any term not exceeding two years, with or without hard labour, and it shall be lawful for the court, if it shall think fit, to require the offender to enter into his own recognizances and to find sureties, both or either, for keeping the peace, in addition to such punishment: provided that no person shall be imprisoned under this clause for not finding sureties for any period exceeding one year.]

Punishment of accessories after the fact.

As to accessories generally :

5. If any principal offender shall be in anywise convicted of any felony, it shall be lawful to proceed against any accessory, either before or after the fact, in the same manner as if such principal felon had been attainted thereof, notwithstanding such principal felon shall die, or be pardoned, or otherwise delivered before attainder; and every such accessory shall upon conviction suffer the same punishment as he would have suffered if the principal had been attainted.

Prosecution of accessory after principal has been convicted, but not attainted.

Framed on the 7 Geo. 4, c. 64, s. 11, and the Irish Act, 9 Geo. 4, c. 54, s. 25. A few words will suffice to explain the scope of this provision. By the common law no acces-

sory can be tried until after not merely the conviction but the attainder of the principal; for after mere conviction, judgment might be arrested and the conviction cancelled, or the convict might die or be pardoned, but after sentence of death was passed (and at common law almost all felonies were capital) he became *attainted* (involving at common law forfeiture of real and personal estate and corruption of blood), and the conviction was complete. The provisions contained in ss. 1 and 3 render this section of little practical importance. See *Reg. v. Hughes*, 29 Law J. (N. S.) M. C. 71.

Several accessories may be included in the same indictment, although principal felon not included.

6. Any number of accessories at different times to any felony, and any number of receivers at different times of property stolen at one time, may be charged with substantive felonies in the same indictment, [and may be tried together,] notwithstanding the principal felon shall not be included in the same indictment, or shall not be in custody or amenable to justice.

Framed on the 14 & 15 Vict. c. 100, s. 15. As to receivers, see *post*, 24 & 25 Vict. c. 96, ss. 91, 98, and *notés*.

Trial of accessories.

7. Where any felony shall have been wholly committed within England or Ireland, the offence of any person who shall be an accessory either before or after the fact to any such felony may be dealt with, inquired of, tried, determined, and punished by any court which shall have jurisdiction to try the principal felony, or any felonies committed in any county or place in which the act by reason whereof such person shall have become such accessory shall have been committed; and in every other case the offence of any person who shall be an accessory either before or after the fact to any felony may be dealt with, inquired of, tried, determined and punished by any court which shall have jurisdiction to try the principal felony or any felonies committed in any county or place in which such person shall be apprehended or be in custody, whether the principal felony shall have been com-

mitted on the sea or on the land, [or begun on the sea and completed on the land, or begun on the land and completed on the sea,] and whether within her majesty's dominions or without, [or partly within her majesty's dominions and partly without;] provided that no person who shall be once duly tried either as an accessory before or after the fact, or for a substantive felony under the provisions hereinbefore contained, shall be liable to be afterwards prosecuted for the same offence.

Framed on the 7 Geo. 4, c. 64, ss. 9, 10, and the Irish Act, 9 Geo. 4, c. 54, ss. 23, 24, and on the 11 & 12 Vict. c. 46, s. 2, and amended. See *post*, 24 & 25 Vict. c. 100, s. 10. See also note to s. 9, *infra*, and sect. 12 (unrepealed) of the 7 Geo. 4, c. 64, by which a felony or misdemeanor committed within 500 yards of the boundary of two counties, or is begun in one county and completed in another, may be tried in either.

As to abettors in misdemeanors :

8. Whosoever shall aid, abet, counsel or procure the commission of any misdemeanor, whether the same be a misdemeanor at common law or by virtue of any act passed or to be passed, shall be liable to be tried, indicted and punished as a principal offender.

Abettors in misdemeanors.

Framed on the 7 & 8 Geo. 4, c. 30, s. 26, and on the Irish Act, 9 Geo. 4, c. 55, s. 54, and extended. This provision, nevertheless, does not extend the common law, which treats every accessory to a misdemeanor as a principal. See 1 Hale, P. C. 613; 4 Bla. Com. 36; *R. v. Greenwood*, 2 Den. C. C. 453; *S. C.*, 21 Law J. (N. S.) M. C. 127.

As to aiders, &c. in offences punishable on summary conviction, see *post*, 24 & 25 Vict. c. 96, s. 99.

As to other matters :

9. [Where any person shall, within the jurisdiction of the Admiralty of England or Ireland, become an accessory to any felony, whether the same be a felony at common law or by virtue of any act passed or to be passed, and whether such felony shall be committed within that jurisdiction

As to offences committed within the jurisdiction of the Admiralty.

or elsewhere, or shall be begun within that jurisdiction and completed elsewhere, or shall be begun elsewhere and completed within that jurisdiction, the offence of such person shall be felony; and in any indictment for any such offence the venue in the margin shall be the same as if the offence had been committed in the county or place in which such person shall be indicted, and his offence shall be averred to have been committed "on the high seas;" provided that nothing herein contained shall alter or affect any of the laws relating to the government of her majesty's land or naval forces.]

This provision is new in its present form. See the Larceny Consolidation Act, 24 & 25 Vict. c. 96, s. 115, *post*. The jurisdiction of the Admiralty extends to the seas and coasts beyond low water-mark, and beyond the body of a county. See *Reg. v. Cunningham*, 28 L. J. (N. S.) M. C. 66. But the offence must have been completed within the jurisdiction. By the 4 & 5 Will. 4, c. 36, offences committed on the high seas and other places within the jurisdiction of the Admiralty of England, are triable at the Central Criminal Court; and by the 7 & 8 Vict. c. 2, justices of assize and commissioners of oyer and terminer or general gaol delivery are empowered to try offences committed within the jurisdiction of the Admiralty of England.

Further, by the 18 & 19 Vict. c. 91 (the Merchant Shipping Act Amendment Act, 1855), s. 21, "If any person being a British subject, charged with having committed any crime or offence on board any British ship on the high seas or in any foreign port or harbour, or if any person, not being a British subject, charged with having committed any crime or offence on board any British ship on the high seas, is found within the jurisdiction of any court of justice in her majesty's dominions which would have had cognizance of such crime or offence if committed within the limits of its ordinary jurisdiction, such court shall have jurisdiction to hear and try the case as if such crime or offence had been committed within such limits." See *Reg. v. Lopez* and *Reg. v. Sattler*, 27 L. J. (N. S.) M. C. 48; *S. C. 1 Dears. & Bell*, 525. See also 24 & 25 Vict. c. 100, s. 10, *post*.

Act not to  
extend to  
Scotland.

10. Nothing in this act contained shall extend to Scotland, except as hereinbefore otherwise expressly provided.

11. This act shall commence and take effect on the first day of November, one thousand eight hundred and sixty-one. Commencement of act.

See the 24 & 25 Vict. c. 95, s. 3, and note, *post*, p. 8.

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24 & 25 VICT. CAP. 95.

*An Act to repeal certain Enactments which have been consolidated in several Acts of the present Session relating to indictable Offences and other Matters.* [6th August, 1861.]

Whereas by six several acts of the present session of parliament, relating respectively to offences against the person, malicious injuries to property, larceny, forgery, coining, and accessories and abettors, divers acts and parts of acts have been consolidated and amended (*a*), and it is expedient to repeal the enactments so consolidated and amended, and certain other enactments: Be it therefore enacted by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal and commons in this present parliament assembled, and by the authority of the same, as follows:

1. The several acts and parts of acts in the schedule hereto annexed shall continue in force until and throughout the last day of October in the present year, and shall from and after that day be repealed to the extent following; (that is to say,) in any case where the enactment does not form part of the law of Scotland then the enactment shall be wholly repealed, but in any case where the enactment does form part of the law of Scotland,

Repeal of acts and parts of acts mentioned in schedule.

(*a*) See the observations in the Introduction with reference to the misplacing of this statute.

then the enactment shall be wholly repealed as to every other place, but shall not be repealed as to Scotland, unless otherwise expressly mentioned.

Repeal not to affect the colonies in certain cases.

2. Provided, that where any enactment shall have been extended to any part of her majesty's dominions out of the united kingdom by any act of the parliament of the united kingdom or otherwise, the same shall not be repealed as to that part of her majesty's dominions.

Repeal not to affect offences, &c. committed before the commencement of this act.

3. Provided also, that every offence which shall have been wholly or partly committed against any of the said acts or parts of acts before this act comes into operation shall be dealt with, inquired of, tried, determined and punished, and every penalty in respect of any such offence shall be recovered, in the same manner as if the said acts and parts of acts had not been repealed ; and that every act duly done, and every warrant and other instrument duly made or granted, before this act comes into operation, shall continue and be of the same force and effect as if the said acts and parts of acts had not been repealed ; and that every right, liability, privilege and protection in respect of any matter or thing committed or done before this act comes into operation shall continue and be of the same force and effect as if the said acts and parts of acts had not been repealed ; and that every action, prosecution and other proceeding which shall have been commenced before this act comes into operation, or shall thereafter be commenced, in respect of any such matter or thing, may be prosecuted, continued and defended in the same manner as if the said acts and parts of acts had not been repealed.

It is scarcely necessary to observe that the effect of this

section is to restrain the operation of the new acts to offences wholly committed after the 31st October, 1861.

The repeal of the statutes enumerated in the schedule has not the effect of reviving any act repealed by them, the act 13 & 14 Vict. c. 21 (for shortening the language used in acts of parliament), enacting, that when an act repealing a former act is itself repealed, the act or provisions before repealed are not to be revived unless by express words.

4. Provided also, that nothing herein contained shall in any manner alter or affect any power or authority given by any act to alter or amend any register of births, baptisms, marriages, deaths or burials.

Repeal not to affect any authority to amend registers of births, &c.

By the Forgery Act, 11 Geo. 4 & 1 Will. 4, c. 66, s. 21, the rector or officiating minister of any parish is exempted from penalties for correcting, in the mode there pointed out, accidental errors in registers, the correction being made within one calendar month of the discovery of the error. It will be seen by the schedule that the above section is expressly retained, the rest of the act being repealed. A similar exemption from penal consequences is contained in the Registration Act, 6 & 7 Will. 4, c. 86, s. 44.

SCHEDULE.

References to Act.	Title of Act.	Extent of Repeal.
10 C. 1, sess. 3, c. 20 (I.)	An act against such as shall levie any fine, suffer any recovery, acknowledge any statute, recognizance, baile or judgment in the name of any other person or persons not being privie and consenting thereto .	<i>The whole.</i>
7 W. 3, c. 18 (I.)	An act for taking special bails in the country upon actions and suits depending in the courts of King's Bench, Common Pleas and Exchequer at Dublin .	<i>Sect. 4.</i>
2 & 3 Ann. c. 4.	An act for the public registering of deeds, conveyances and wills that shall be made of any honors, manors, lands, tenements or hereditaments within the west riding of the county of York after the 29th day of September, 1704.	<i>So much of sect. 19 as relates to any forging or counterfeiting therein mentioned.</i>
6 Ann. c. 2 (I.)	An act for the public registering of all deeds, conveyances and wills that shall be made of any honors, manors, lands, tenements or hereditaments.	<i>So much of sect. 17 as relates to any forging or counterfeiting therein mentioned.</i>

- | References to Act.     | Title of Act.   | Extent of Repeal. |
|------------------------|---|-------------------|
| 6 Ann. c. 35.—         | An act for the public registering of all deeds, conveyances, wills and other incumbrances that shall be made of, or that may affect any honors, manors, lands, tenements or hereditaments within the east riding of the county of York, or the town and county of the town of Kingston-upon-Hull, after the 29th day of September, 1708; and for the rendering the register in the west riding more complete. |                   |
|                        | <i>So much of sect. 26 as relates to any forging or counterfeiting therein mentioned.</i>   |                   |
| 7 Ann. c. 20.—         | An act for the public registering of deeds, conveyances, and wills and other incumbrances which shall be made of, or that may affect honors, manors, lands, tenements or hereditaments within the county of Middlesex after the 29th day of September, 1709.  |                   |
|                        | <i>So much of sect. 15 as relates to any forging or counterfeiting therein mentioned.</i>   |                   |
| 8 Ann. c. 10 (I.).—    | An act for amending an act intituled "An Act for the Public Registering of all Deeds, Conveyances and Wills that shall be made of any Honors, Manors, Lands, Tenements or Hereditaments."   |                   |
|                        | <i>So much of sect. 4 as relates to any forging or counterfeiting therein mentioned.</i>  |                   |
| 8 Geo. 1, c. 15 (I.).— | An act for explaining and amending two several acts in relation to the public registering of deeds, conveyances and wills.  |                   |
|                        | <i>So much of sect. 4 as relates to any forging or counterfeiting therein mentioned.</i>  |                   |
| 11 Geo. 1, c. 9.—      | An act for continuing the several annuities of 88,751 <i>l.</i> 7 <i>s.</i> 10½ <i>d.</i> and 100,000 <i>l.</i> to the Bank of England until Midsummer, 1727, and from thence for reducing the same to 71,001 <i>l.</i> 2 <i>s.</i> 3¾ <i>d.</i> and 80,000 <i>l.</i> , redeemable by parliament, and for preventing the uttering of forged, counterfeited or erased bank bills or notes . . . . .            | Sect. 6.          |
| 12 Geo. 1, c. 32.—     | An act for better securing the monies and effects of the suitors of the Court of Chancery, and to prevent the counterfeiting of East India bonds, and indorsements thereon; as likewise indorsements on South Sea bonds.  | Sect. 9.          |
| 3 Geo. 2, c. 4 (I.).—  | An act for the more effectual preventing and further punishment of forgery, perjury and subornation of perjury, and to make it felony to steal bonds, notes or other securities for payment of money, and for the more effectual transporting felons, vagabonds and others.   | Sect. 1.          |



- | References to Act.          | Title of Act.   | Extent of Repeal.        |
|-----------------------------|---|--------------------------|
| 8 Geo. 2, c. 6.—            | An act for the public registering of all deeds, conveyances, wills and other incumbrances that shall be made of, or that may affect any honors, manors, lands, tenements or hereditaments within the north riding of the county of York, after the 29th day of September, 1736.   |                          |
|                             | <i>So much of sect. 31 as relates to any forging or counterfeiting therein mentioned.</i>   |                          |
| 15 Geo. 2, c. 13.—          | An act for establishing an agreement with the governor and company of the Bank of England for advancing the sum of 1,600,000 <i>l.</i> towards the supply for the service of the year 1742 . . . . .  | <i>Sect. 12.</i>         |
| 17 Geo. 2, c. 11 (I).—      | An act for the amendment of the law in relation to forgery, and the salvage of ships and goods stranded . . . . .   | <i>Sect. 1.</i>          |
| 13 & 14 Geo. 3, c. 14 (I).— | An act for the more effectual preventing the forging or altering the acceptance or indorsement of bills of exchange, or the numbers or principal sums of accountable receipts for notes, bills, or other securities for payment of money, or warrants or orders for payment of money or delivery of goods . . . . .   | <i>The whole.</i>        |
| 21 & 22 Geo. 3, c. 16 (I).— | An act for establishing a bank by the name of the governors and company of the Bank of Ireland.   | <i>Sects. 15 and 16.</i> |
| 23 & 24 Geo. 3, c. 22 (I).— | An act for better securing the monies and effects of the suitors of the Court of Chancery and the Court of Exchequer by depositing the same in the national bank; and to prevent the forging and counterfeiting any draft, order, or other voucher for the payment or delivery of such money or effects; and for other purposes. <i>Sect. 22.</i>   |                          |
| 25 Geo. 3, c. 37 (I).—      | An act to explain and amend an act passed in the thirteenth and fourteenth years of the reign of his present majesty king George the Third, intituled "An Act for the more effectual preventing the forging or altering the Acceptance or Indorsement of Bills of Exchange, or the Numbers or Principal Sums of accountable Receipts for Notes, Bills or other Securities for Payment of Money, or Warrants or Orders for Payment of Money or Delivery of Goods." | <i>The whole.</i>        |
| 27 Geo. 3, c. 15 (I).—      | An act to prevent tumultuous risings and assemblies, and for the more effectual punishment of persons guilty of outrage, riot and illegal combination, and of administering and taking unlawful oaths . . . . .   | <i>Sect. 5.</i>          |

- | Reference to Act.     | Title of Act.   | Extent of Repeal.  |
|-----------------------|---|--|
| 35 Geo. 3, c. 66.     | —An act for making part of certain principal sums or stock and annuities raised or created or to be raised or created by the parliament of the kingdom of Ireland on loans for the use of the government of that kingdom transferable, and the dividends on such stock and annuities payable at the Bank of England; and for the better security of the proprietors of such stocks and annuities, and of the governor and company of the Bank of England. |  |
|                       |   | <i>Sect. 3 and all the subsequent sections.</i>                    |
| 37 Geo. 3, c. 26 (I.) | —An act to prevent the forging of notes and bills of the governor and company of the Bank of Ireland, and to prevent the obtaining of false credit, and the committing of frauds by the imitation of notes or bills of the said governor and company . . . .  | <i>The whole.</i>  |
| 37 Geo. 3, c. 46.     | —An act for making certain annuities created by the parliament of the kingdom of Ireland transferable, and the dividends thereon payable at the Bank of England; and for the better security of the proprietors of such annuities, and of the governor and company of the Bank of England.  |  |
|                       |   | <i>Sect. 3 and all the subsequent sections.</i>                    |
| 37 Geo. 3, c. 54 (I.) | —An act to enable the proprietors of debentures issued by government to convert them into stock transferable at the Bank of Ireland.  |  |
|                       |   | <i>Sect. 11 and all the subsequent sections.</i>                   |
| 37 Geo. 3, c. 126.    | —An act to prevent the counterfeiting any copper coin in this realm made or to be made current by proclamation, or any foreign gold or silver coin; and to prevent the bringing into this realm or uttering any counterfeit foreign gold or silver coin.  |  |
|                       |   | <i>The whole, both as to England and Scotland, except sect. 1.</i> |
| 38 Geo. 3, c. 53 (I.) | —An act for the more effectually preventing the forging of the note and bills of the governor and company of the Bank of Ireland, and the circulation of forged notes and bills of the said governor and company . . . .  | <i>The whole.</i>  |
| 39 Geo. 3, c. 63 (I.) | —An act for the more effectually preventing the forging of bills of exchange and promissory notes, or any acceptance, assignment or indorsement thereof, or any acquittance or receipt for money or goods; and also for preventing the forging of the promissory notes of the governor and company of the Bank of England, commonly called bank notes, and the bills of exchange of the said governor and company called bank post bills.                 |  |
|                       |   | <i>The whole, except the last section.</i>                         |

- | Reference to Act.     | Title of Act.   | Extent of Repeal.      |
|-----------------------|---|------------------------|
| 40 Geo. 3, c. 96 (I.) | —An act to revive, amend, continue or make perpetual certain temporary statutes.  |                        |
|                       | <i>So much of sect. 5 as perpetuates the part of the 27 Geo. 3, c. 15, hereby repealed.</i>   |                        |
| 41 Geo. 3, c. 57.     | —An act for the better prevention of the forgery of the notes and bills of exchange of persons carrying on the business of bankers . . . . .  | <i>The whole.</i>      |
| 43 Geo. 3, c. 139.    | —An act for preventing the forging and counterfeiting of foreign bills of exchange, and of foreign promissory notes and orders for the payment of money; and for preventing the counterfeiting of foreign copper money.   |                        |
|                       | <i>Sections 1 and 2 as to Ireland, and the rest of the act as to the whole United Kingdom.</i>  |                        |
| 48 Geo. 3, c. 1.      | —An act for regulating the issuing and paying off of exchequer bills . . . . .  | <i>Sect. 9.</i>        |
| 49 Geo. 3, c. 13 (I.) | —An act for the more effectually preventing the forging of bank notes, bank bills of exchange and bank post bills, and the negotiation of forged and counterfeited bank notes, bank bills of exchange and bank post bills of the governor and company of the Bank of Ireland.   |                        |
|                       | <i>The whole.</i>   |                        |
| 1 Geo. 4, c. 4.       | —An act for punishing criminally drivers of stage coaches and carriages for accidents occasioned by their wilful misconduct . . . . .   | <i>The whole.</i>      |
| 1 Geo. 4, c. 92.      | —An act for the prevention of forging and counterfeiting of bank notes . . . . .  | <i>Sects. 1 and 2.</i> |
| 3 Geo. 4, c. 116.     | —An act for the more convenient and effectual registering in Ireland deeds executed in Great Britain.   |                        |
|                       | <i>So much of sect. 7 as relates to any forging or counterfeiting therein mentioned.</i>  |                        |
| 4 Geo. 4, c. 54.      | —An act for allowing the benefit of clergy to persons convicted of certain felonies, under two acts of the ninth year of King George the First and of the twenty-seventh year of King George the Second; for making better provision for the punishment of persons guilty of sending or delivering threatening letters; and of assaults with intent to commit robbery . . . . . | <i>The whole.</i>      |
| 5 Geo. 4, c. 25 (I.)  | —An act to repeal so much of an act passed in the ninth year of the reign of King William the Third as relates to burials in suppressed monasteries, abbeys or convents in Ireland; and to make further provision with respect to the burial in Ireland of persons dissenting from the Established Church . . . . .   | <i>Sect. 5.</i>        |

- | Reference to Act.              | Title of Act.  | Extent of Repeal.                  |
|--------------------------------|--|------------------------------------|
| 7 Geo. 4, c. 64.—              | An act for improving the administration of criminal justice in England . . . . .   | Sects. 9, 10 and 11.               |
| 7 & 8 Geo. 4, c. 18.—          | An act to prohibit the setting spring guns, man traps and other engines calculated to destroy human life or inflict grievous bodily harm . . . . .                         | <i>The whole.</i>                  |
| 7 & 8 Geo. 4, c. 29.—          | An act for consolidating and amending the laws of England relative to larceny and other offences connected therewith<br><i>The whole, as to the whole United Kingdom.</i>  |                                    |
| 7 & 8 Geo. 4, c. 30.—          | An act for consolidating and amending the laws in England relative to malicious injuries to property.<br><i>The whole.</i>   |                                    |
| 9 Geo. 4, c. 31.—              | An act for consolidating and amending the statutes in England relative to offences against the person.<br><i>The whole.</i>  |                                    |
| 9 Geo. 4, c. 54 (I.)—          | An act for improving the administration of justice in criminal cases in Ireland . . . . .  | Sects. 23, 24 and 25.              |
| 9 Geo. 4, c. 55 (I.)—          | An act for consolidating and amending the laws in Ireland relative to larceny and other offences connected therewith.<br><i>The whole, as to the whole United Kingdom.</i> |                                    |
| 9 Geo. 4, c. 56 (I.)—          | An act for consolidating and amending the laws in Ireland relative to malicious injuries to property.<br><i>The whole.</i>   |                                    |
| 10 Geo. 4, c. 34 (I.)—         | An act for consolidating and amending the statutes in Ireland relating to offences against the person.<br><i>The whole.</i>  |                                    |
| 11 Geo. 4 & 1 Will. 4, c. 66.— | An act for reducing into one act all such forgeries as shall henceforth be punished with death, and for otherwise amending the laws relative to forgery . . . . .          | <i>The whole, except sect. 21.</i> |
| 2 & 3 Will. 4, c. 4.—          | An act for more effectually preventing embezzlements by persons employed in the public service of his majesty . . . . .  | <i>The whole.</i>                  |
| 2 & 3 Will. 4, c. 34.—         | An act for consolidating and amending the laws against offences relating to the coin.<br><i>The whole, as to the whole United Kingdom.</i>                                 |                                    |
| 2 & 3 Will. 4, c. 75.—         | An act for regulating schools of anatomy.  | <i>Sect. 16.</i>                   |

- | Reference to Act.           | Title of Act.   | Extent of Repeal. |
|-----------------------------|---|-------------------|
| 2 & 3 Will. 4, c. 123.—     | An act for abolishing the punishment of death in certain cases of forgery . . . . .   | <i>The whole.</i> |
| 3 & 4 Will. 4, c. 44.—      | An act to repeal so much of two acts of the seventh and eighth years and the ninth year of King George the Fourth as inflicts the punishment of death upon persons breaking, entering and stealing in a dwelling-house; also for giving power to the judges to add to the punishment of transportation for life in certain cases of forgery, and in certain other cases . . . . .           | <i>The whole.</i> |
| 4 & 5 Will. 4, c. 26.—      | An act to abolish the practice of hanging the bodies of criminals in chains . . . . .   | <i>Sect. 2.</i>   |
| 5 & 6 Will. 4, c. 34 (I).—  | An act to amend two clerical errors contained in an act passed in the ninth year of the reign of his late majesty King George the Fourth, intituled "An Act for consolidating and amending the Laws in Ireland relative to Larceny and other Offences connected therewith."   | <i>The whole.</i> |
| 5 & 6 Will. 4, c. 81.—      | An act for abolishing capital punishments in cases of letter stealing and sacrilege.<br><i>So much as relates to the punishment of any person who shall break and enter any church or chapel, and steal therein any chattel, or having stolen any chattel in any church or chapel shall break out of the same, and to principals in the second degree and accessories in such offences.</i> |                   |
| 6 & 7 Will. 4, c. 4.—       | An act to amend the act of the last session for abolishing capital punishments in cases of letter stealing and sacrilege.<br><i>So much as alters and amends that part of the 5 &amp; 6 Will. 4, c. 81, which is hereby repealed.</i>   |                   |
| 6 & 7 Will. 4, c. 30.—      | An act to repeal so much of two acts of the ninth and tenth years of King George the Fourth, as directs the period of the execution and the prison discipline of persons convicted of the crime of murder . . . . .   | <i>The whole.</i> |
| 6 & 7 Will. 4, c. 86.—      | An act for registering births, deaths and marriages in England . . . . .  | <i>Sect. 43.</i>  |
| 7 Will. 4 & 1 Vict. c. 77.— | An act to assimilate the practice of the Central Criminal Court to other courts of criminal judicature within the kingdom of England and Wales with respect to offenders liable to the punishment of death.<br><i>So much of sect. 3 as empowers the court to direct sentence of death to be recorded in cases of murder.</i>   |                   |

- | Reference to Act.           | Title of Act.   | Extent of Repeal.                 |
|-----------------------------|---|-----------------------------------|
| 7 Will. 4 & 1 Vict. c. 84.— | An act to abolish the punishment of death in cases of forgery.  |                                   |
|                             | <i>So much of sects. 1 and 3 as relates to the forging, altering, offering, uttering, disposing of, or putting off any will, testament, codicil, or testamentary writing, or any power of attorney, or other authority therein mentioned, and to principals in the second degree and accessories before the fact in such offences, and so much of sects. 2 and 3 as relates to the punishment of any offence created by or formerly punishable under any enactment in this schedule before mentioned and hereby repealed.</i> |                                   |
| 7 Will. 4 & 1 Vict. c. 85.— | An act to amend the laws relating to offences against the person . . . . .  | <i>The whole.</i>                 |
| 7 Will. 4 & 1 Vict. c. 86.— | An act to amend the laws relating to burglary and stealing in a dwelling-house . . . . .  | <i>The whole.</i>                 |
| 7 Will. 4 & 1 Vict. c. 87.— | An act to amend the laws relating to robbery and stealing from the person . . . . .   | <i>The whole.</i>                 |
| 7 Will. 4 & 1 Vict. c. 89.— | An act to amend the laws relating to burning or destroying buildings and ships . . . . .  | <i>The whole.</i>                 |
| 7 Will. 4 & 1 Vict. c. 90.— | An act to amend the law relative to offences punishable by transportation for life.   | <i>The whole, except sect. 5.</i> |
| 2 & 3 Vict. c. 58.—         | An act to make further provision for the administration of justice, and for improving the practice and proceedings in the courts of the stannaries of Cornwall, and for the prevention of frauds by workmen employed in the mines within the county of Cornwall . . . . .   | <i>Sect. 10.</i>                  |
| 3 & 4 Vict. c. 97.—         | An act for regulating railways . . . . .  | <i>Sect. 15.</i>                  |
| 4 & 5 Vict. c. 56.—         | An act for taking away the punishment of death in certain cases, and substituting other punishments in lieu thereof.  |                                   |
|                             | <i>Sects. 2 and 3, and so much of sect. 1 as relates to embezzlements by officers or servants of the Bank of England.</i>   |                                   |
| 5 & 6 Vict. c. 28 (I).—     | An act to assimilate the law in Ireland as to the punishment of death to the law in England; to abolish the punishment of death in certain cases in Ireland, and to substitute other punishments in lieu thereof.   |                                   |
|                             | <i>Sects. 4, 13, 14 and 15, and so much of sect. 7 as alters the punishment contained in any enactment hereby</i>   |                                   |

Reference to Act.	Title of Act.	Extent of Repeal.
		<i>repealed, and so much of sect. 18 as relates to principals in the second degree and accessories before the fact to any offence mentioned in the said sects. 4, 13, 14 and 15, or in the said part of the said sect. 18 hereby repealed.</i>
5 & 6 Vict. c. 39.—	An act to amend the law relating to advances bonâ fide made to agents intrusted with goods . . . . .	<i>Sect. 6.</i>
5 & 6 Vict. c. 66.—	An act for further regulating the preparation and issue of exchequer bills . . . . .	<i>Sects. 9 and 10.</i>
5 & 6 Vict. c. 106 (I).—	An act to regulate the Irish fisheries.	<i>Sects. 11 and 12.</i>
6 & 7 Vict. c. 10.—	An act for removing doubts as to the punishment which may be awarded under the provisions of an act of the fourth and fifth years of her present majesty, "for taking away the punishment of death in certain cases," for certain offences therein specified . . . . .	<i>The whole.</i>
7 & 8 Vict. c. 62.—	An act to amend the law as to burning farm buildings . . . . .	<i>The whole.</i>
7 & 8 Vict. c. 81 (I).—	An act for marriages in Ireland, and for registering such marriages . . . . .	<i>Sect. 75.</i>
8 & 9 Vict. c. 44.—	An act for the better protection of works of art and scientific and literary productions . . . . .	<i>The whole.</i>
8 & 9 Vict. c. 47.—	An act for the further prevention of the offence of dog stealing . . . . .	<i>The whole.</i>
8 & 9 Vict. c. 108 (I).—	An act for the further amendment of an act of the sixth year of her present majesty for regulating the Irish fisheries . . . . .	<i>Sect. 18.</i>
9 & 10 Vict. c. 25.—	An act for preventing malicious injuries to persons and property by fire or by explosive or destructive substances . . . . .	<i>The whole.</i>
10 & 11 Vict. c. 66.—	An act for extending the provisions of the law respecting threatening letters and accusing parties with a view to extort money . . . . .	<i>The whole.</i>
11 & 12 Vict. c. 46.—	An act for the removal of defects in the administration of criminal justice . . . . .	<i>Sects. 1, 2 and 3.</i>
12 & 13 Vict. c. 11.—	An act to amend the laws of England and Ireland relative to larceny and other offences connected therewith . . . . .	<i>The whole.</i>
12 & 13 Vict. c. 76.—	An act to protect women from fraudulent practices for procuring their defilement . . . . .	<i>The whole.</i>

- | Reference to Act.        | Title of Act.  | Extent of Repeal.   |
|--------------------------|--|---|
| 13 & 14 Vict. c. 72 (I.) | —An act to amend the laws for the registration of assurances of lands in Ireland . . . .   | Sect. 62.   |
| 13 & 14 Vict. c. 88 (I.) | —An act to amend the law relating to engines used in the rivers and on the sea-coasts of Ireland for the taking of fish . . . . .  | Sect. 42.   |
| 14 & 15 Vict. c. 11.     | —An act for the better protection of persons under the care and control of others as apprentices or servants; and to enable the guardians and overseers of the poor to institute and conduct prosecutions in certain cases.  | Sects. 1, 2, 6 and 7.   |
| 14 & 15 Vict. c. 19.     | —An act for the better prevention of offences.   | Sects. 1, 2, 3, 4, 6, 7, 8 and 9.   |
| 14 & 15 Vict. c. 92 (I.) | —An act to consolidate and amend the acts relating to certain offences and other matters, as to which justices of the peace exercise summary jurisdiction in Ireland.  | Sects. 2, 3, 4 and 5.   |
| 14 & 15 Vict. c. 100.    | —An act for further improving the administration of criminal justice.  | <i>Sects. 4, 6, 8, 11, 13, 14, 15, 16, 17, and so much of sect. 5 as relates to forging or uttering any instrument, and so much of sect. 29 as relates to any indecent assault, or any assault occasioning actual bodily harm, or any attempt to have carnal knowledge of a girl under twelve years of age.</i> |
| 16 & 17 Vict. c. 23.     | —An act for redeeming or commuting the annuity payable to the South Sea Company, and certain annuities of three pounds per centum per annum, and for creating new annuities of three pounds ten shillings per centum per annum, and two pounds ten shillings per centum per annum, and issuing exchequer bonds . . . . | Sect. 41.   |
| 16 & 17 Vict. c. 30.     | —An act for the better prevention and punishment of aggravated assaults upon women and children, and for preventing delay and expense in the administration of certain parts of the criminal law . . . .   | Sect. 1.  |
| 16 & 17 Vict. c. 99.     | —An act to substitute in certain cases other punishment in lieu of transportation . . . .  | Sect. 12.   |
| 16 & 17 Vict. c. 102.    | —An act to prevent the defacing of the current coin of the realm.  | <i>The whole, as to the whole United Kingdom.</i>   |
| 16 & 17 Vict. c. 113.    | —An act to amend the procedure in the superior courts of common law in Ireland.  | <i>So much of sect. 71 as relates to any action which shall be commenced against any person for anything</i>  |



Reference to Act.	Title of Act.	Extent of Repeal.
	<i>done in pursuance of any of the acts of this session for consolidating and amending the statute law of England and Ireland relating to larceny, malicious injuries and coin.</i>	
16 & 17 Vict. c. 132.—	An act to extend the provisions of an act of the present session for redeeming or commuting the annuity payable to the South Sea Company and certain annuities of three pounds per centum per annum, and to provide for payments to be made under the said act.	<i>Sects. 10 and 11.</i>
17 & 18 Vict. c. 33.—	An act to place public statues within the metropolitan police district under the control of the commissioners of her majesty's works and public buildings.	<i>Sect. 6.</i>
20 & 21 Vict. c. 54.—	An act to make better provision for the punishment of frauds committed by trustees, bankers and other persons intrusted with property . . . .	<i>The whole.</i>
21 & 22 Vict. c. 3.—	An act for enabling the East India Company to raise money in the United Kingdom for the service of the government of India . . . .	<i>Sect. 10.</i>
21 & 22 Vict. c. 47.—	An act to amend the law of false pretences.	<i>The whole.</i>
21 & 22 Vict. c. 79.—	An act to amend the law relating to cheques or drafts on bankers . . . .	<i>Sect. 3.</i>
21 & 22 Vict. c. 106.—	An act for the better government of India.	<i>Sect. 50.</i>
22 Vict. c. 11.—	An act to enable the Secretary of State in Council of India to raise money in the United Kingdom for the service of the government of India . . . .	<i>Sect. 10.</i>
22 & 23 Vict. c. 32.—	An act to amend the law concerning the police in counties and boroughs in England and Wales.	<i>Sect. 25.</i>
22 & 23 Vict. c. 39.—	An act to enable the Secretary of State in Council of India to raise money in the United Kingdom for the service of the government of India . . . .	<i>Sect. 13.</i>
23 & 24 Vict. c. 8.—	An act to amend the law relating to the unlawful administering of poison . . . .	<i>The whole.</i>
23 & 24 Vict. c. 29.—	An act to amend an act relative to malicious injuries to property . . . .	<i>The whole.</i>
23 & 24 Vict. c. 130.—	An act to enable the Secretary of State in Council of India to raise money in the United Kingdom for the service of the government of India . . . .	<i>Sect. 13.</i>

## 24 &amp; 25 VICT. CAP. 96.

*An Act to consolidate and amend the Statute Law of England and Ireland relating to Larceny and other similar Offences.*

[6th August, 1861.]

Whereas it is expedient to consolidate and amend the statute law of England and Ireland relating to larceny and other similar offences: Be it enacted by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal and commons in this present parliament assembled, and by the authority of the same, as follows :

Interpreta-  
tion of terms :

" Document  
of title to  
goods :"

## 1. In the interpretation of this act :

The term "document of title to goods" shall include any bill of lading, India warrant, dock warrant, warehouse keeper's certificate, warrant or order for the delivery or transfer of any goods or valuable thing, [bought and sold note,] or any other document used in the ordinary course of business as proof of the possession or control of goods, or authorizing or purporting to authorize, either by indorsement or by delivery, the possessor of such document to transfer or receive any goods thereby represented [or therein mentioned or referred to:]

" Document  
of title to  
lands :"

[The term "document of title to lands" shall include any deed, map, paper, or parchment, written or printed, or partly written and partly printed, being or containing evidence of the title, or any part of the title, to any real

estate, or to any interest in or out of any real estate :]

The term "trustee" shall mean a trustee on "Trustee:" some express trust created by some deed, will, or instrument in writing, and shall include the heir or personal representative of any such trustee, [and any other person upon or to whom the duty of such trust shall have devolved or come,] and also an executor and administrator, [and an official manager,] assignee, liquidator, [or other like officer acting,] under any present [or future] act relating to joint stock companies, bankruptcy, or insolvency :

The term "valuable security" shall include any "Valuable security:" order, exchequer acquittance, or other security whatsoever entitling or evidencing the title of any person or body corporate to any share or interest in any public stock or fund, whether of the united kingdom, or of Great Britain or of Ireland, or of any foreign state, or in any fund of any body corporate, company, or society, [whether within the united kingdom or in any foreign state or country (a),] or to any deposit in any bank, and shall also include any debenture, deed, bond, bill, note, warrant, order, or other security whatsoever for money or for payment of money, whether of the united kingdom, or of Great Britain, or of Ireland, or of any foreign state, [and any document of title to lands or goods as hereinbefore defined :]

The term "property" shall include every de- "Property

(a) Inserted, probably, in reference to a doubt expressed in *Reg. v. Smith*, 25 L. J. (N. S.) M. C. 31; *C. S. Dears. C. C.* 561.

scription of real and personal property, money, debts, and legacies, and all deeds and instruments relating to or evidencing the title or right to any property, or giving a right to recover or receive any money or goods, and shall also include, not only such property as shall have been originally, [in the possession or under the control of any party,] but also any property into or for which the same may have been converted or exchanged, [and anything acquired by such conversion or exchange, whether immediately or otherwise:]

Night."

For the purposes of this act, the night shall be deemed to commence at nine of the clock in the evening of each day, and to conclude at six of the clock in the morning of the next succeeding day.

The interpretation of the term "document of title to goods," is, with the exception of the words in brackets, taken from the 5 & 6 Vict. c. 39, to amend the law relating to advances *bonâ fide* made to agents entrusted with goods, sect. 6 of which is repealed by the 24 & 25 Vict. c. 95.

The interpretation of "trustee" and "property" is, with the exception of the words in brackets, framed on the Fraudulent Trustee Act, 20 & 21 Vict. c. 54, s. 17, the whole of which act is repealed by the 24 & 25 Vict. c. 95.

The term "valuable security" follows, with the exception of the words in brackets, the definition given by the 7 & 8 Geo. 4, c. 29, s. 5, and the Irish Act, 9 Geo. 4, c. 55, s. 5.

It may be observed that bank notes may, in all indictments, be described as money, 14 & 15 Vict. c. 100, s. 18 (unrepealed), and see *Reg. v. West*, 26 L. J. (N. S.) M. C. 6; *S. C. 1 Dears. & Bell*, C. C. 109.

The duration of "night" follows the words of the now repealed act, 7 Will. 4 & 1 Vict. c. 86. See the note to sect. 52, *post*.

larcenies  
be of the  
ne na-  
e (a).

2. Every larceny, whatever be the value of the property stolen, shall be deemed to be of the same nature, and shall be subject to the same incidents

(a) The marginal note, it is obvious, is imperfect.

in all respects as grand larceny was before the twenty-first day of June, one thousand eight hundred and twenty-seven; and every court whose power as to the trial of larceny was before that time limited to petty larceny shall have power to try every case of larceny, the punishment of which cannot exceed the punishment hereinafter mentioned for simple larceny, and also to try all accessories to such larceny.

This follows the language of the 7 & 8 Geo. 4, c. 29, s. 2, and of the corresponding Irish Act, 9 Geo. 4, c. 55, s. 2.

The date 21st June, 1827, is the date of the commencement of the act 7 & 8 Geo. 4, c. 29, by which the distinction between grand and petty larceny was abolished in England.

"Grand larceny" was the stealing of property above the value of twelve pence, and petty larceny, of property not exceeding that value. The punishment of grand larceny at common law was death, of petty larceny, imprisonment or whipping, but they were both made punishable by transportation by the 4 Geo. 1, c. 11. It is to be regretted that the distinction having so long ceased, it was thought necessary to involve the definition of larceny, with an express reference to the incidents of grand larceny, and compel at the present day an inquiry into its incidents at a distant period. The chief incident is forfeiture on conviction, in common with other felonies. Some of the incidents of forfeiture, however, have been modified since 1827, and there is no forfeiture on convictions for larceny, under the Juvenile Offenders or Summary Jurisdiction Acts, 10 & 11 Vict. c. 82, s. 12, and 18 & 19 Vict. c. 126, s. 11.

Larcenies are now distinguished as *simple* or *compound*, the latter comprising larcenies accompanied by aggravating circumstances, as for example, larceny from the person, or larceny after a previous conviction for felony.

Offences within this section are triable at quarter sessions.

This provision does not, of course, interfere with the summary jurisdiction of justices under the Juvenile Offenders Acts, 10 & 11 Vict. c. 82, 13 & 14 Vict. c. 37, and the Summary Jurisdiction in Larceny Acts, 18 & 19 Vict. c. 126, and 19 & 20 Vict. c. 118.

3. Whosoever, being a bailee of any chattel, money, or valuable security, shall fraudulently take or convert the same to his own use or the use of any person other than the owner thereof, although

Bailees fraudulently converting property guilty of larceny.

he shall not break bulk or otherwise determine the bailment, shall be guilty of larceny, [and may be convicted thereof upon an indictment for larceny ; but this section shall not extend to any offence punishable on summary conviction.]

With the exception of the bracketed words, this section is a re-enactment of sect. 4 of the recent but now repealed Fraudulent Trustee Act, 20 & 21 Vict. c. 54.

At common law where goods are delivered to another upon trust (as where they are given to a carrier to carry), or where the goods are taken with the owner's consent (as where they are borrowed or hired, without any fraud in the first instance), as the carrier and other persons have a special property in the goods, as distinguished from the bare possession, the subsequent conversion of the goods, while what is termed "the contract of bailment" continues, does not amount at common law to a larceny, but only to a breach of trust, the subject of an action, (see, as illustrations, *Reg. v. Gibbs*, 24 L. J. (N. S.) M. C. 62; *S. C. Dears. C. C. 445*; *Reg. v. Thistle*, 19 L. J. (N. S.) M. C. 66.) Nevertheless, if the contract of bailment be first determined, then the subsequent fraudulent conversion is a larceny at common law, and the bailment is said to be determined by "breaking bulk," or by some other wrongful act. Thus, if a carrier opened a parcel or box entrusted to him he was said to break the bulk, and this determined the bailment, and his subsequently fraudulently taking the contents was larceny. See also *Reg. v. Poyser*, 20 L. J. (N. S.) M. C. 191. This technical distinction is got rid of by the provision in the text.

Nevertheless, it is not every conversion of property by a person entrusted with it for a particular purpose that can be treated as larceny under s. 3. Thus, where by a resolution of an enrolled friendly society, the prisoner, one of the trustees in whom, by the Friendly Societies Act, 18 & 19 Vict. c. 63, the property of the society was vested, was directed to take a sum of money then in the hands of the treasurer to a bank, and he received it from the treasurer and misappropriated it, it was held that he could not be convicted of stealing the money, as a bailee of the treasurer, for the treasurer had no property in the money after he parted with the possession, but the property was vested in the prisoner. *Reg. v. Loose*, 29 L. J. (N. S.) M. C. 132.

The power to convict, upon an indictment for larceny, was added by the select committee of the House of Commons, and is of great practical advantage, as it obviates the necessity of any special form of indictment. No punishment is provided by the section, but being now a simple larceny, it is punishable under section 4. Justices however, it seems, cannot summarily convict for this offence under the acts

10 & 11 Vict. c. 82; 18 & 19 Vict. c. 126; 19 & 20 Vict. c. 118. It may be tried at quarter sessions.

4. Whosoever shall be convicted of simple larceny, or of any felony hereby made punishable like simple larceny, shall (except in the cases herein-after otherwise provided for) be liable, at the discretion of the court, to be [kept in penal servitude for the term of three years, or to be] imprisoned for any term not exceeding two years, with or without hard labour (*a*), and with or without solitary confinement (*b*), and, if a male under the age of sixteen (*c*) years, with or without whipping.

Punishment  
for simple  
larceny.

(*a*) In the common gaol or house of correction, see *post*, s. 118.

(*b*) As to solitary confinement, see *post*, s. 119.

(*c*) The age of sixteen, in this and subsequent sections, (except s. 101,) was a substitution by the committee of the House of Commons for eighteen years; as to whipping, see *post*, s. 119.

This section was originally framed on the 7 & 8 Geo. 4, c. 29, ss. 3 & 4, and the corresponding Irish Act, 9 Geo. 4, c. 55, ss. 3 & 4, as severally amended by the 12 & 13 Vict. c. 11, s. 1, but after the bill had passed the select committee of the House of Commons, the power to give penal servitude was introduced, and the period of imprisonment, which had stood at three years, was reduced to two years.

5. It shall be lawful to insert several counts in the same indictment against the same person for any number of distinct acts of stealing, not exceeding three, which may have been committed by him against the same person within the space of six months (*d*) from the first to the last of such acts, and to proceed thereon for all or any of them.

Three larcenies within six months may be charged in one indictment.

(*d*) It may be observed that by the 13 & 14 Vict. c. 21, for shortening the language used in acts of parliament, the word "month" in all acts means calendar month, unless words be added showing that lunar month was intended.

6. If upon the trial of any indictment for larceny it shall appear that the property alleged in

Where a single taking is charged,

and several takings at different times are proved.

such indictment to have been stolen at one time was taken at different times, the prosecutor shall not by reason thereof be required to elect upon which taking he will proceed, unless it shall appear that there were more than three takings, or that more than the space of six months elapsed between the first and the last of such takings; and in either of such last-mentioned cases the prosecutor shall be required to elect to proceed for such number of takings, not exceeding three, as appear to have taken place within the period of six months from the first to the last of such takings.

The two preceding sections are simply re-enactments of the now repealed provisions of the 14 & 15 Vict. c. 100, ss. 16 & 17. Before that statute only one act of stealing could be included in the same indictment, and in the frequent case of its appearing on the trial, that the prisoner took the articles mentioned in the indictment at several distinct definite times, (see *Reg. v. Johnson*, 1 Dears. & B. C. C. 340, 27 L. J. (N. S.) M. C. 52,) the prosecuting counsel was required at the close of the evidence to elect for which taking he proceeded, and to abandon the rest. Now, however, the several takings, if all within six months, and not exceeding three in number, should be introduced as separate counts in the indictment, or, if the facts be not disclosed before the trial, evidence may be given of the different takings under the one count for the whole. In either case the owner of the property must be one and the same person, otherwise separate indictments must be preferred.

As to the joinder of counts for receiving stolen goods, see 24 & 25 Vict. c. 96, s. 92, *post*.

Larceny after a conviction for felony.

7. [Whosoever shall commit the offence of simple larceny after a previous conviction for felony, whether such conviction shall have taken place upon an indictment, or under the provisions of the act passed in the session held in the eighteenth and nineteenth years of queen Victoria, chapter one hundred and twenty-six (a), shall be liable, at the discretion of the court, to be kept in penal servi-

(a) The Summary Jurisdiction Act, amended by the 19 & 20 Vict. c. 118.



tude for any term not exceeding ten years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.]

Under s. 11 of the 7 & 8 Geo. 4, c. 28 (unrepealed), and s. 21 (unrepealed) of the corresponding Irish Act, 9 Geo. 4, c. 54, every felony (not capital), after a previous conviction for felony, is punishable by penal servitude for life, or not less than three years, (20 & 21 Vict. c. 3,) or imprisonment with or without hard labour not exceeding four years, and, if a male, with whipping, (once, twice, or thrice, privately). Every larceny is itself felony, (i. e. a *species* of felony,) and therefore the provision in the text, has the effect of reducing the limits of punishment wherever larceny is the second and substantive offence, and to that extent, therefore, it operates as a repeal of s. 11 of the 7 & 8 Geo. 4, c. 28, and of s. 21 of the 9 Geo. 4, c. 54.

As to the mode of proving a previous conviction, and the procedure on the trial, see *post*, s. 116. As to solitary confinement and whipping, see *post*, s. 119.

Larcenies, after a previous conviction, are triable at quarter sessions.

8. [Whosoever shall commit the offence of simple larceny, or any offence hereby made punishable like simple larceny, after having been previously convicted of any indictable misdemeanor punishable under this act, shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.]

Larceny after conviction of an indictable misdemeanor or under this act.

This offence of larceny after a previous conviction for misdemeanor is new. It is to be observed, however, that the previous offence is limited to an indictable misdemeanor under this statute, and it consequently only applies to offences under ss. 17, 18, 19, 20, 24, 26, 58, 75, 76, 77, 78, 80, 81, 82, 83, 84, 88, 90, and 95. As to solitary confinement and whipping, see *post*, s. 119.

Larceny, after a previous conviction for misdemeanor, is triable at quarter sessions.

Larceny  
after two  
summary  
convictions.

9. Whosoever shall commit the offence of simple larceny, or any offence hereby made punishable like simple larceny, after having been twice summarily convicted of any of the offences punishable upon summary conviction, under the provisions contained in the act of the session held in the seventh and eighth years of king George the fourth, chapter twenty-nine, or the act of the same session, chapter thirty, or the act of the ninth year of king George the fourth, chapter fifty-five, or the act of the same year, chapter fifty-six, or the act of the session held in the tenth and eleventh years of queen Victoria, chapter eighty-two, or the act of the session held in the eleventh and twelfth years of queen Victoria, chapter fifty-nine, or in sections three, four, five, and six of the act of the session held in the fourteenth and fifteenth years of queen Victoria, chapter ninety-two, or in this act, or the act of this session, intituled "An Act to consolidate and amend the Statute Law of England and Ireland relating to malicious Injuries to Property," (whether each of the convictions shall have been in respect of an offence of the same description or not, and whether such convictions or either of them shall have been or shall be before or after the passing of this act,) shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour,

7 & 8 Geo. 4,  
cc. 29, 30.

9 Geo. 4, cc.  
55, 56 (a).

10 & 11 Vict.  
c. 82 (b).

11 & 12 Vict.  
c. 59 (a).

14 & 15 Vict.  
c. 92 (a).

24 & 25 Vict.  
c. 97.

(a) Irish Acts.

(b) Juvenile Offenders Act.

and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Founded on the 12 & 13 Vict. c. 11, s. 3. The introduction of the words "shall be guilty of felony" appears to be unnecessary, and is calculated to embarrass, for simple larceny is itself a felony, (see note to sect. 7,) and the only effect of the section is, as in sections 7 & 8, to increase the punishment, and (as a consequence of that) to prevent the summary jurisdiction of justices, under the Juvenile Offenders and other acts. As to solitary confinement and whipping, see *post*, s. 119.

These offences are triable at quarter sessions.

As to larceny of cattle or other animals :

10. Whosoever shall steal any horse, mare, gelding, colt or filly, or any bull, cow, ox, heifer or calf, or any ram, ewe, sheep or lamb, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding fourteen years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Stealing horses, cows, sheep, &c.

Framed on the 7 & 8 Geo. 4, c. 29, s. 25, and on the corresponding Irish Act, 9 Geo. 4, c. 55, s. 25.

The description of animals is precisely the same as in those acts. The stealing of these domestic animals was larceny at common law, and this special provision is only necessary with reference to the increased punishment.

As to solitary confinement, see *post*, s. 119.

These offences are triable at quarter sessions.

11. Whosoever shall wilfully kill any animal, with intent to steal the carcass, skin, or any part of the animal so killed, shall be guilty of felony, and being convicted thereof shall be liable to the same punishment as if he had been convicted of feloniously stealing the same, provided the offence of

Killing animals with intent to steal the carcass, &c.

stealing the animal so killed would have amounted to felony.

Founded upon the 7 & 8 Geo. 4, c. 29, s. 25, and on the corresponding Irish Act, 9 Geo. 4, c. 55, s. 25, which made it felony to kill any of the cattle specifically mentioned in that section (and in sect. 10 of the present act), with intent to steal the carcase or skin, or any part of the cattle so killed.

Now, it will be seen the killing any animal is a felony if the stealing would have amounted to felony. Some question may be raised whether this section would include the case of an animal the stealing of which is only felony under certain circumstances, as when reclaimed. Such a case seems to be within the letter and spirit of the provision. See also sect. 21, *post*.

This offence is triable at quarter sessions.

Stealing deer in an uninclosed part of a forest.

12. Whosoever shall unlawfully and wilfully course, hunt, snare or carry away, or kill or wound, or attempt to kill or wound, any deer kept or being in the uninclosed part of any forest, chase or purlieu, shall for every such offence, on conviction thereof before a justice of the peace, forfeit and pay such sum, not exceeding fifty pounds, as to the justice shall seem meet; and whosoever, having been previously convicted of any offence relating to deer, for which a pecuniary penalty shall have been imposed by this or by any former act of parliament, shall afterwards commit any of the offences hereinbefore enumerated, whether such second offence be of the same description as the first or not, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Second offence.

Framed on part of the 7 & 8 Geo. 4, c. 29, s. 26.

An appeal lies to the quarter sessions against the summary conviction for the first offence, if above 5*l.*, or before one justice

only, (see *post*, s. 110;) and either party may appeal to one of the superior courts, if dissatisfied with the determination of the justice, as being erroneous in point of law: 20 & 21 Vict. c. 43.

The second offence is triable at quarter sessions. As to the procedure on the trial, see *post*, s. 116.

As to solitary confinement and whipping, see *post*, s. 119.

13. Whosoever shall unlawfully and wilfully course, hunt, snare or carry away, or kill or wound, or attempt to kill or wound, any deer kept or being in the inclosed part of any forest, chase or purlieu, or in any inclosed land where deer shall be usually kept, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Stealing deer in any inclosed ground.

Framed on part of the 7 & 8 Geo. 4, c. 29, s. 26. This and the Irish Act, 14 & 15 Vict. c. 92, s. 5, are assimilated. Stealing deer in a park is a larceny at common law.

As to solitary confinement and whipping, see *post*, s. 119. This offence is triable at quarter sessions.

14. If any deer, or the head, skin, or other part thereof, or any snare or engine for the taking of deer, shall (a) be found in the possession of any person or on the premises of any person with his knowledge, and such person, being [taken, or summoned (b)] before a justice of the peace, shall not satisfy the justice that he came lawfully by such deer, or the head, skin or other part thereof, or had a lawful occasion for such snare or engine and did not keep the same for any unlawful purpose, he shall, on conviction by the justice, forfeit and pay

Suspected persons found in possession of venison, &c., and not satisfactorily accounting for it.

(a) The words, "by virtue of a search-warrant to be granted as hereinafter mentioned," were inserted in the repealed statute, 7 & 8 Geo. 4, c. 29, s. 27.

(b) "Carried," 7 & 8 Geo. 4, c. 29, s. 27.

Penalty.

In case they cannot be convicted, how the justice may proceed.

any sum not exceeding twenty pounds; and if any such person shall not under the said provisions be liable to conviction, then, for the discovery of the party who actually killed or stole such deer, the justice, at his discretion, as the evidence given and the circumstances of the case shall require, may summon before him every person through whose hands such deer, or the head, skin or other part thereof, shall appear to have passed; and if the person from whom the same shall have been first received, or who shall have had possession thereof, shall not satisfy the justice that he came lawfully by the same, he shall, on conviction by the justice, be liable to the payment of such sum of money as is hereinbefore last mentioned.

This section follows almost verbatim with the exceptions pointed out in the notes (a) and (b), the 7 & 8 Geo. 4, c. 29, s. 27. This and the Irish Act, 14 & 15 Vict. c. 92, s. 4, are assimilated. An appeal lies to the quarter sessions against convictions under this section, if the sum adjudged to be paid exceeds 5*l.*, or is before one justice only; and either party may appeal to one of the superior courts, if dissatisfied with the determination of the justice, as being erroneous in point of law: 20 & 21 Vict. c. 43. See *post*, sect. 110.

Setting engines for taking deer or pulling down park fences.

15. Whosoever shall unlawfully and wilfully set or use any snare or engine whatsoever, for the purpose of taking or killing deer, in any part of any forest, chase or purlieu, whether such part be inclosed or not, or in any fence or bank dividing the same from any land adjoining, or in any inclosed land where deer shall be usually kept, or shall unlawfully and wilfully destroy any part of the fence of any land where any deer shall be then kept, shall, on conviction thereof before a justice of the peace, forfeit and pay such sum of money, not exceeding twenty pounds, as to the justice shall seem meet.

This section follows verbatim the 7 & 8 Geo. 4, c. 29, s. 28,

and has the effect of extending it to Ireland. An appeal lies against a conviction under this section if before one justice only, or if the sum adjudged to be paid exceeds 5*l.* See sect. 110, *post*.

16. If any person shall enter into any forest, chase or purlieu, whether inclosed or not, or into any inclosed land where deer shall be usually kept, with intent unlawfully to hunt, course, wound, kill, snare, or carry away any deer, every person intrusted with the care of such deer, and any of his assistants, whether in his presence or not, may demand from every such offender any gun, fire-arms, snare or engine in his possession, and any dog there brought for hunting, coursing or killing deer, and, in case such offender shall not immediately deliver up the same, may seize and take the same from him in any of those respective places, or, upon pursuit made, in any other place to which he may have escaped therefrom, for the use of the owner of the deer; and if any such offender shall unlawfully beat or wound any person intrusted with the care of the deer, or any of his assistants, in the execution of any of the powers given by this act, every such offender shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Deer keepers, &c. may seize the guns, &c. of offenders who, on demand, do not deliver up the same.

Penalty on resistance to keepers, &c. in the execution of their duty.

This section follows almost verbatim the 7 & 8 Geo. 4, c. 29, s. 29, and this provision is now extended to Ireland. As to solitary confinement and whipping, see *post*, s. 119.

This offence is triable at quarter sessions.

17. Whosoever shall unlawfully and wilfully, [between the expiration of the first hour after sun-

Killing, &c. hares or rabbits in a

warren in  
the night-  
time.

The like in  
the day-  
time.

Exception.

set and the beginning of the last hour before sunrise,] take or kill any hare or rabbit in any warren or ground lawfully used for the breeding or keeping of hares or rabbits, whether the same be inclosed or not, shall be guilty of a misdemeanor; and whosoever shall unlawfully and wilfully, [between the beginning of the last hour before sunrise and the expiration of the first hour after sunset,] take or kill any hare or rabbit in any such warren or ground, or shall at any time set or use therein any snare or engine for the taking of hares or rabbits, shall, on conviction thereof before a justice of the peace, forfeit and pay such sum of money, not exceeding five pounds, as to the justice shall seem meet; provided that nothing in this section contained shall affect any person taking or killing in the day-time any rabbits on any sea bank or river bank in the county of Lincoln, so far as the tide shall extend, or within one furlong of such bank.

With the exception of the substitution of defined hours for "night-time" and "day-time," this section follows the language of the 7 & 8 Geo. 4, c. 29, s. 30. This provision is now extended to Ireland. The punishment for the indictable misdemeanor is not defined, but by common law misdemeanors are punishable by fine or imprisonment.

If the summary conviction under this section is by one justice only, an appeal lies (see sect. 110, *post*); and either party may appeal to one of the superior courts, if dissatisfied with the determination of the justice, as being erroneous in point of law: 20 & 21 Vict. c. 43.

Stealing  
dogs.

18. Whosoever shall steal any dog shall, on conviction thereof before two justices of the peace, either be committed to the common gaol or house of correction, there to be imprisoned, or to be imprisoned and kept to hard labour, for any term not exceeding six months, or shall forfeit and pay, over and above the value of the said dog, such sum of money, not exceeding twenty pounds, as to the



said justices shall seem meet; and whosoever, having been convicted of any such offence, [either against this or any former act of parliament,] shall afterwards steal any dog, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding eighteen months, with or without hard labour.

Second  
offence.

Framed on the repealed statute 8 & 9 Vict. c. 47, s. 2. This and the Irish Act, 14 & 15 Vict. c. 92, s. 5, are assimilated. Dog-stealing is not larceny at common law, (see the note to sect. 21, *post*.)

An appeal lies against the summary conviction, if the sum adjudged to be paid exceeds 5*l.* (see sect. 110, *post*), or if the imprisonment adjudged exceeds one month; and either party may appeal to one of the superior courts, if dissatisfied with the determination of the justices, as being erroneous in point of law: 20 & 21 Vict. c. 43.

The second offence is triable at quarter sessions.

19. Whosoever shall unlawfully have in his possession or on his premises any stolen dog, or the skin of any stolen dog, knowing such dog to have been stolen or such skin to be the skin of a stolen dog, shall, on conviction thereof before two justices of the peace, be liable to pay such sum of money, not exceeding twenty pounds, as to such justices shall seem meet; and whosoever, having been convicted of any such offence, either against this or any former act of parliament, shall afterwards be guilty of any such offence as in this section before mentioned, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding eighteen months, with or without hard labour.

Possession  
of stolen  
dogs.

Second  
offence.

Framed on the 8 & 9 Vict. c. 47, s. 3. This and the Irish Act, 14 & 15 Vict. c. 92, s. 5, are assimilated. An appeal to the quarter sessions lies against the summary conviction, if the sum adjudged to be paid exceeds 5*l.* (see sect. 110, *post*);

and either party may appeal to one of the superior courts, if dissatisfied with the determination of the justices, as being erroneous in point of law: 20 & 21 Vict. c. 43.

The second offence is triable at quarter sessions. For the procedure on the trial, see *post*, s. 116.

aking  
oney to  
store dogs.

**20.** Whosoever shall corruptly take any money or reward, directly or indirectly, under pretence or upon account of aiding any person to recover any dog which shall have been stolen, or which shall be in the possession of any person not being the owner thereof, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding eighteen months, with or without hard labour.

Framed on the 8 & 9 Vict. c. 47, s. 6. This provision is now extended to Ireland.

tealing  
easts or  
irds ordi-  
arily kept  
i confinement,  
and  
of the  
subjects of  
arceny.

**21.** Whosoever shall steal any bird, beast, [or other animal,] ordinarily kept in a state of confinement [or for any domestic purpose,] not being the subject of larceny at common law, [or shall wilfully kill any such bird, beast or animal, with intent to steal the same or any part thereof,] shall, on conviction thereof before a justice of the peace, at the discretion of the justice, either be committed to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour for any term not exceeding six months, or else shall forfeit and pay, over and above the value of the bird, beast [or other animal,] such sum of money, not exceeding twenty pounds, as to the justice shall seem meet; and whosoever, having been convicted of any such offence, either against this or any former act of parliament, shall afterwards commit any offence in this section before mentioned, and shall be convicted thereof in like

second  
ffence.

manner, shall be committed to the common gaol or house of correction, there to be kept to hard labour for such term not exceeding twelve months, as the convicting justice shall think fit.

Framed on the 7 & 8 Geo. 4, c. 29, s. 31. This and the Irish Act, 14 & 15 Vict. c. 92, s. 5, are assimilated.

An appeal lies to the quarter sessions against these convictions, if the imprisonment exceeds one month, or if the sum adjudged to be paid exceeds 5*l.*, or if the conviction is before one justice only (see sect. 110, *post*); and either party may appeal to one of the superior courts, if dissatisfied with the determination of the justice, as being erroneous in point of law: 20 & 21 Vict. c. 43.

The common law with reference to animals may be thus concisely stated. Domestic animals serving for food are the subject of larceny at common law, but wild animals in their natural state of liberty are not the subject of larceny at common law; but such animals as are used for food, if reclaimed or confined, become the subject of larceny at common law, as pigeons which have a house or box, although open to the common air (*Reg. v. Cheafor*, 2 Den. C. C. 361; *S. C.* 21 L. J., M. C. 43), deer in a park, fish in a net, and so forth; but dogs, cats, ferrets, monkeys, parrots, and other animals, although tame and saleable, are not the subject of larceny at common law.

22. If any such bird, or any of the plumage thereof, or any dog, or any such beast, or the skin thereof, [or any such animal, or any part thereof,] shall be found in the possession or on the premises of any person, any justice may restore the same respectively to the owner thereof; and any person in whose possession or on whose premises such bird or the plumage thereof, or such beast or the skin thereof, [or such animal or any part thereof,] shall be so found, (such person knowing that the bird, beast [or animal] has been stolen, or that the plumage is the plumage of a stolen bird, or that the skin is the skin of a stolen beast, [or that the part is a part of a stolen animal,]) shall, on conviction before a justice of the peace, be liable for the first offence to such forfeiture, and for every subsequent offence to

Persons found in possession of stolen beasts, &c. liable to penalties.

such punishment, as any person convicted of stealing any beast or bird is made liable to by the last preceding section.

By this section the 7 & 8 Geo. 4, c. 29, s. 32, the 8 & 9 Vict. c. 47, s. 3, and the Irish Act, 14 & 15 Vict. c. 92, s. 5, are assimilated.

An appeal lies to the quarter sessions against these convictions if the imprisonment exceeds one month, or if the sum adjudged to be paid exceeds 5*l.*, or if the conviction is before one justice only (see sect. 110, *post*); and either party may appeal to one of the superior courts, if dissatisfied with the determination of the justice, as being erroneous in point of law: 20 & 21 Vict. c. 43.

Killing  
pigeons.

**23.** Whosoever shall unlawfully and wilfully kill, wound, or take any house dove or pigeon under such circumstances as shall not amount to larceny at common law, shall, on conviction before a justice of the peace, forfeit and pay, over and above the value of the bird, any sum not exceeding two pounds.

Framed on the 7 & 8 Geo. 4, c. 29, s. 33, which is thus extended to Ireland. See the note to sect. 22, *supra*.

An appeal lies to the quarter sessions if the conviction be before one justice only, (see sect. 110, *post*); and either party may appeal to one of the superior courts, if dissatisfied with the determination of the justice, as being erroneous in point of law: 20 & 21 Vict. c. 43.

Taking fish  
in any water  
situate in  
land be-  
longing to a  
dwelling-  
house;  
in a private  
fishery else-  
where.

**24.** Whosoever shall unlawfully and wilfully take or destroy any fish in any water which shall run through or be in any land adjoining or belonging to the dwelling-house of any person being the owner of such water, or having a right of fishery therein, shall be guilty of a misdemeanor; and whosoever shall unlawfully and wilfully take or destroy, or attempt to take or destroy, any fish in any water not being such as hereinbefore mentioned, but which shall be private property, or in which there shall be any private right of fishery, shall, on conviction thereof before a justice of the peace, forfeit

and pay, over and above the value of the fish taken or destroyed (if any), such sum of money, not exceeding five pounds, as to the justice shall seem meet: provided, that nothing hereinbefore contained shall extend to any person angling [between the beginning of the last hour before sunrise and the expiration of the first hour after sunset]: but whosoever shall by angling [between the beginning of the last hour before sunrise and the expiration of the first hour after sunset] unlawfully and wilfully take or destroy, or attempt to take or destroy, any fish in any such water as first mentioned shall, on conviction before a justice of the peace, forfeit any pay any sum not exceeding five pounds, and, if in any such water as last mentioned, he shall, on the like conviction, forfeit and pay any sum not exceeding two pounds as to the justice shall seem meet; and if the boundary of any parish, township, or vill shall happen to be in or by the side of any such water as is in this section before mentioned, it shall be sufficient to prove that the offence was committed either in the parish, township, or vill named in the indictment or information, or in any parish, township, or vill adjoining thereto.

Provision  
respecting  
anglers.

Provision as  
to bound-  
aries of  
parishes.

With the exception of the substitution of defined hours, for "in the day-time," this section follows almost verbatim the 7 & 8 Geo. 4, c. 29, s. 34, which is thus extended to Ireland. See the Irish Acts, 11 & 12 Vict. c. 92, ss. 22 & 41, and the 5 & 6 Vict. c. 106, ss. 79, 80.

An appeal lies against these convictions if before one justice only, or if the money adjudged to be paid exceeds 5*l.*, (see sect. 110, *post*); and either party may appeal to one of the superior courts, if dissatisfied with the determination of the justice, as being erroneous in point of law: 20 & 21 Vict. c. 43.

25. If any person shall at any time be found fishing against the provisions of this act, the owner of the ground, water, or fishery where such offender

The tackle  
of fishers  
may be  
seized.

Angler, on seizure of his tackle, exempt from penalty.

shall be so found, his servant, or any person authorized by him, may demand from such offender any rod, line, hook, net, or other implement for taking or destroying fish which shall then be in his possession, and, in case such offender shall not immediately deliver up the same, may seize and take the same from him for the use of such owner: provided, that any person angling against the provisions of this act, [between the beginning of the last hour before sunrise and the expiration of the first hour after sunset,] from whom any implement used by anglers shall be taken, or by whom the same shall be so delivered up, shall by the taking or delivering thereof be exempted from the payment of any damages or penalty for such angling.

Framed on the 7 & 8 Geo. 4, c. 29, s. 35, which is thus extended to Ireland.

Stealing or dredging for oysters in oyster fisheries.

26. Whosoever shall steal any oysters or oyster brood from any oyster bed, laying, or fishery, being the property of any other person, and sufficiently marked out or known as such, shall be guilty of felony, and being convicted thereof shall be liable to be punished as in the case of simple larceny; and whosoever shall unlawfully and wilfully use any dredge, or any net, instrument, or engine whatsoever, within the limits of any oyster [bed, laying, or] fishery, [being the property of any other person, and sufficiently marked out or known as such,] for the purpose of taking oysters or oyster brood, although none shall be actually taken, or shall [unlawfully and wilfully], with any net, instrument, or engine, drag upon the ground or soil of any such fishery, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceed-

ing three months, with or without hard labour, and with or without solitary confinement; and it shall be sufficient in any indictment to describe either by name or otherwise the bed, laying, or fishery in which any of the said offences shall have been committed, without stating the same to be in any particular parish, township, or vill: provided, that nothing in this section contained shall prevent any person from catching or fishing for any floating fish within the limits of any oyster fishery with any net, instrument, or engine adapted for [taking] floating fish only.

Form of indictment.

Proviso as to floating fish.

This section follows nearly verbatim, with the bracketed exceptions, the 7 & 8 Geo. 4, c. 29, s. 36. See the assimilated provisions of the Irish Acts, 5 & 6 Vict. c. 106, ss. 11 & 12 (repealed), 9 & 10 Vict. c. 114, 8 & 9 Vict. c. 108, s. 18 (repealed), 13 & 14 Vict. c. 88, s. 42 (repealed). This offence is triable at quarter sessions.

#### As to larceny of written instruments:

27. Whosoever shall steal, or shall for any fraudulent purpose destroy, cancel, or obliterate, the whole or any part of any valuable security (*a*), other than a document of title to lands, shall be guilty of felony, of the same nature and in the same degree and punishable in the same manner as if he had stolen any chattel of like value with the share, interest, or deposit to which the security so stolen may relate, or with the money due on the security so stolen, or secured thereby and remaining unsatisfied, or with the value of the goods or other valuable thing represented, mentioned, or referred to in or by the security.

Bonds, bills, notes, &c.

(*a*) See "valuable security" defined, *ante*, sect. 1.

Framed on the 7 & 8 Geo. 4, c. 29, s. 5, and on the corresponding provision in the Irish Act, 9 Geo. 4, c. 56, s. 5. See also the unrepealed statute 2 & 3 Will. 4, s. 2, as to embezzlements by persons in the public service. At common

law the subject-matter of larceny must have been of things in *possession*, as distinguished from *choses* (or things) in *action*, of no intrinsic value, but capable of being made available by action. Hence the stealing of securities for money was not larceny at common law, and title deeds cannot therefore be described as goods and chattels. *Reg. v. Powell*, 2 Den. C. C. 403, 21 L. J., M. C. 78. Bank notes may be described simply as money, 14 & 15 Vict. c. 100, s. 18.

These offences are triable at quarter sessions.

deeds, &c.  
relating to  
real prop-  
erty.

28. Whosoever shall steal, [or shall for any fraudulent purpose destroy, cancel, obliterate, or conceal, the whole or any part of] any document of title to lands (*a*) shall be guilty of [felony], and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for the term of three years, or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement (*b*); and in any indictment for any such offence relating to any document of title to lands, it shall be sufficient to allege such document to be or to contain evidence of the title or of part of the title of the person or some one of the persons having an interest, whether [vested or contingent], legal or equitable, in the real estate to which the same relates, and to mention such real estate or some part thereof.

form of  
indictment.

(*a*) See "document of title to lands" defined, *ante* sect. 1.

(*b*) See *post*, ss. 118, 119.

Under the corresponding provision of the 7 & 8 Geo. 4, c. 29, (s. 23,) and of the Irish Act, 9 Geo. 4, c. 55, (s. 23,) this offence was only a misdemeanor.

At common law a larceny could not be committed of title deeds to real estate, because they "savoured of the realty," and real property, as distinguished from personal property, was not the subject of larceny.

These offences cannot be tried at quarter sessions, (5 & 6 Vict. c. 38.)

29. Whosoever shall, either during the life of the testator or after his death, steal, or for any



fraudulent purpose destroy, [cancel, obliterate,] or conceal [the whole or any part of] any will, codicil, or other testamentary instrument, whether the same shall relate to real or personal estate, or to both, shall be guilty of [felony], and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement (*a*); and it shall not in any indictment for such offence be necessary to allege that such will, codicil, or other instrument is the property of any person: provided, that nothing in this or the last preceding section mentioned, nor any proceeding, conviction, or judgment to be had or taken thereupon, shall prevent, lessen, or impeach any remedy at law or in equity which any party aggrieved by any such offence might or would have had if this act had not been passed; but no conviction of any such offender shall be received in evidence in any action at law or suit in equity against him; and no person shall be liable to be convicted of any of the felonies in this and the last preceding section mentioned, by any evidence whatever, in respect of any act done by him, if he shall at any time previously to his being [charged with (*b*)] such offence have [first] disclosed such act, on oath, in consequence of any compulsory process of any court of law or equity in any action, suit, or proceeding which shall have been bonâ fide instituted by any party aggrieved, or if he shall have [first] disclosed the same in any [compulsory] examination or deposition before any [court upon

Other remedies not to be affected.

(*a*) See *post*, ss. 118, 119.

(*b*) "Indicted for," 7 & 8 Geo. 4, c. 29, s. 23.

the hearing of any matter (a)] in bankruptcy [or insolvency].

(a) "Commissioner" 7 & 8 Geo. 4, c. 29, s. 23.

Under the corresponding provisions of the 7 & 8 Geo. 4, c. 29, (ss. 22, 24), and of the Irish Act, 9 Geo. 4, c. 55, (ss. 22, 24), this offence was only a misdemeanor. See the notes to the last and previous section.

These offences cannot be tried at quarter sessions, (5 & 6 Vict. c. 38.)

Stealing  
records or  
other legal  
documents.

30. Whosoever shall steal, or shall for any fraudulent purpose take from its place of deposit for the time being, or from any person having the lawful custody thereof, or shall unlawfully and maliciously [cancel], obliterate, injure, or destroy [the whole or any part of] any record, writ, return, panel, process, interrogatory, deposition, affidavit, rule, order, or warrant of attorney, or of any original document whatsoever of or belonging to any court of record, or relating to any matter, civil or criminal, begun, depending, or terminated in any such court, or of any bill, [petition,] answer, interrogatory, deposition, affidavit, order, or decree, or of any original document whatsoever of or belonging to any court of equity, or relating to any cause or matter begun, depending, or terminated in any such court, [or of any original document in anywise relating to the business of any office or employment under her majesty, and being or remaining in any office appertaining to any court of justice, or in any of her majesty's castles, palaces, or houses, or in any government or public office,] shall be guilty of [felony], and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for the term of three years, or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without

solitary confinement (a); and it shall not in any indictment for such offence be necessary to allege that the article in respect of which the offence is committed is the property of any person.

Form of indictment.

(a) See *post*, ss. 118, 119.

Under the corresponding provision of the 7 & 8 Geo. 4, c. 29, s. 21, and of the Irish Act, 9 Geo. 4, c. 55, s. 21, this offence was only a misdemeanor. See the note to sect. 27.

These offences cannot be tried at quarter sessions, (5 & 6 Vict. c. 38.)

As to larceny of things attached to or growing on land :

31. Whosoever shall steal, or shall rip, cut, sever, or break with intent to steal, any glass or wood-work belonging to any building whatsoever, or any lead, iron, copper, brass, or other metal, or any utensil or fixture, whether made of metal or other material [or of both], respectively fixed in or to any building whatsoever, or any thing made of metal fixed in any land being private property, or for a fence to any dwelling-house, garden, or area, or in any square or street, or [in any (a)] place dedicated to public use or ornament, [or in any burial ground (b),] shall be guilty of felony, and being convicted thereof shall be liable to be punished as in the case of simple larceny; and in the case of any such thing fixed in any such square, street, or place as aforesaid, it shall not be necessary to allege the same to be the property of any person.

Metal, glass, wood, &c. fixed to house or land.

(a) "Other," 7 & 8 Geo. 4, c. 29, s. 44.

(b) Without these words it was held, (Bramwell, B., *dubitante*), that a churchyard was within the provision, as being private property. *Reg. v. Jones*, 1 Dears. & B. C. C. 555; 27 L. J. (N. S.) M. C. 171.

This section follows nearly verbatim the 7 & 8 Geo. 4, c. 29, s. 44, and the corresponding provision in the Irish Act, 9 Geo. 4, c. 55, s. 37. The things mentioned here, being attached to the freehold, were not the subjects of larceny at common law. See the note to sect. 28.

Although the punishment is the same as in the case of simple larceny, the indictment must allege the thing stolen as being fixed to a building, but a wharf, with sheds on it, may be a building within this provision, *Reg. v. Rice*, 28 L. J. (N. S.) M. C. 64.

These offences are triable at quarter sessions.

Trees in pleasure grounds of the value of 1*l.*, or elsewhere of the value of 5*l.*

32. Whosoever shall steal, or shall cut, break, root up, or otherwise destroy or damage with intent to steal, the whole or any part of any tree, sapling, or shrub, or any underwood, respectively growing in any park, pleasure ground, garden, orchard, or avenue, or in any ground adjoining or belonging to any dwelling-house, shall (in case the value of the article or articles stolen, or the amount of the injury done, shall exceed the sum of one pound,) be guilty of felony, and being convicted thereof shall be liable to be punished as in the case of simple larceny (a); and whosoever shall steal, or shall cut, break, root up, or otherwise destroy or damage with intent to steal, the whole or any part of any tree, sapling, or shrub, or any underwood, respectively growing elsewhere than in any of the situations in this section before mentioned, shall (in case the value of the article or articles stolen, or the amount of the injury done, shall exceed the sum of five pounds,) be guilty of felony, and being convicted thereof shall be liable to be punished as in the case of simple larceny (a).

(a) See *ante*, s. 4.

This section follows nearly verbatim the 7 & 8 Geo. 4, c. 29, s. 38, and the corresponding provision of the Irish Act, 9 Geo. 4, c. 55, s. 31. Trees, as adhering to the freehold, were not the subject of larceny at common law.

These offences are triable at quarter sessions.

Juvenile offenders may be summarily convicted, under the 10 & 11 Vict. c. 82, and 13 & 14 Vict. c. 37.

Stealing trees, shrubs. &c.,

33. Whosoever shall steal, or shall cut, break, root up, or otherwise destroy or damage with in-

tent to steal, the whole or any part of any tree, sapling, or shrub, or any underwood, wheresoever the same may be respectively growing, the stealing of such article or articles, or the injury done, being to the amount of a shilling at the least, shall, on conviction thereof before a justice of the peace, forfeit and pay, over and above the value of the article or articles stolen, or the amount of the injury done, such sum of money not exceeding five pounds as to the justice shall seem meet; and whosoever, having been convicted of any such offence [either against this or any former act of parliament], shall afterwards commit any of the said offences in this section before mentioned, and shall be convicted thereof in like manner, shall for such second offence be committed to the common gaol or house of correction, there to be kept to hard labour for such term not exceeding twelve months as the convicting justice shall think fit; and whosoever, having been twice convicted of any such offence [(whether both or either of such convictions shall have taken place before or after the passing of this act)], shall afterwards commit any of the offences in this section before mentioned, shall be guilty of felony, and being convicted thereof shall be liable to be punished in the same manner (a) as in the case of simple larceny.

wheresoever growing, and of any value above 1s., punishable on summary conviction for first and second offence; third offence, felony.

Second offence.

Third offence.

(a) See *ante*, s. 4.

This section follows nearly verbatim the 7 & 8 Geo. 4, c. 29, s. 39, but the punishment of whipping for male offenders is omitted in this and sects. 34 & 37. This and the Irish Act, 14 & 15 Vict. c. 92, s. 5, are assimilated.

An appeal lies against conviction for the first offence, if the sum adjudged to be paid exceeds 5*l.*, or if the conviction be before one justice only; and against the second offence, if before one justice only, or if the imprisonment adjudged exceeds one month, (see sect. 110, *post*); and either party may appeal to one of the superior courts, if dissatisfied with the

determination of the justice, as being erroneous in point of law: 20 & 21 Vict. c. 43. The third offence is triable at quarter sessions; and it seems the Juvenile Offenders Acts 10 & 11 Vict. c. 82, and 13 & 14 Vict. c. 37, and also the Summary Jurisdiction Act, 18 & 19 Vict. c. 126, apply to this offence.

Stealing, &c.  
any live or  
dead fence,  
wooden  
fence, stile  
or gate.

34. Whosoever shall steal, or shall cut, break, or throw down with intent to steal, any part of any live or dead fence, or any wooden post, pale, [wire], or rail set up or used as a fence, or any stile or gate, or any part thereof respectively, shall, on conviction thereof before a justice of the peace, forfeit and pay, over and above the value of the article or articles so stolen, or the amount of the injury done, such sum of money not exceeding five pounds as to the justice shall seem meet; and whosoever, having been convicted of any such offence [either against this or any former act of parliament], shall afterwards commit any of the said offences in this section before mentioned, and shall be convicted thereof in like manner, shall be committed to the common gaol or house of correction, there to be kept to hard labour, for such term not exceeding twelve months as the convicting justice shall think fit.

Second  
offence.

Framed on the 7 & 8 Geo. 4, c. 29, s. 40. This and the Irish Act, 14 & 15 Vict. c. 92, s. 5, are assimilated.

An appeal lies to the quarter sessions against these convictions, if before one justice only, or if the sum adjudged to be paid exceeds 5*l.*, or, in the case of the second offence, if the imprisonment adjudged exceeds one month, (see *post*, sect. 110;) or either party may appeal to one of the superior courts, if dissatisfied with the determination of the justice, as being erroneous in point of law: 20 & 21 Vict. c. 43.

Suspected  
persons in  
possession of  
wood, &c.,  
not satisfac-  
torily ac-  
counting  
for it.

35. If the whole or any part of any tree, sapling, or shrub, or any underwood, or any part of any live or dead fence, or any post, pale, [wire], rail, stile, or gate, or any part thereof, being of the value of [one] shilling at the least, shall be found in the

possession of any person, or on the premises of any person, with his knowledge, and such person, being taken or summoned before a justice of the peace, shall not satisfy the justice that he came lawfully by the same, he shall on conviction by the justice forfeit and pay, over and above the value of the article or articles so found, any sum not exceeding two pounds.

Framed on the 7 & 8 Geo. 4, c. 29, s. 41. This and the Irish Act, 14 & 15 Vict. c. 92, s. 4, are assimilated.

An appeal to the quarter sessions lies against the conviction, if before one justice only, or either party may appeal to one of the superior courts, if dissatisfied with the determination of the justices being erroneous in point of law. 20 & 21 Vict. c. 43.

36. Whosoever shall steal, or shall destroy or damage with intent to steal, any plant, root, fruit, or vegetable production growing in any garden, orchard, [pleasure ground,] nursery ground, hot-house, greenhouse, or conservatory, shall, on conviction thereof before a justice of the peace, at the discretion of the justice, either be committed to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, for any term not exceeding six months, or else shall forfeit and pay, over and above the value of the article or articles so stolen, or the amount of the injury done, such sum of money not exceeding twenty pounds as to the justice shall seem meet; and whosoever, having been convicted of any such offence [either against this or any former act of parliament], shall afterwards commit any of the offences in this section before mentioned, shall be guilty of felony, and being convicted thereof shall be liable to be punished in the same manner (a) as in the case of simple larceny.

Stealing, &c. any fruit or vegetable production in a garden, &c., punishable on summary conviction for first offence;

Second offence, felony.

(a) See *ante*, s. 4.

This section follows nearly verbatim the 7 & 8 Geo. 4, c. 29, s. 42. This and the Irish Act, 14 & 15 Vict. c. 92, s. 5, are assimilated.

An appeal to the quarter sessions lies against the summary conviction, if before one justice only, or if the sum adjudged to be paid exceeds 5*l.*, or if the imprisonment exceeds one month, (see *post*, sect. 110); or either party may appeal to one of the superior courts, if dissatisfied with the determination of the justice, as being erroneous in point of law: 20 & 21 Vict. c. 43.

The second offence is triable at quarter sessions, and it seems the Juvenile Offenders Acts, 10 & 11 Vict. c. 82, and 13 & 14 Vict. c. 37, and also the Summary Jurisdiction Act, 18 & 19 Vict. c. 126, apply to this offence.

Stealing, &c.  
vegetable  
productions  
not growing  
in gardens,  
&c.

37. Whosoever shall steal, or shall destroy or damage with intent to steal, any cultivated root or plant used for the food of man or beast, or for medicine, or for distilling, or for dyeing, or for or in the course of any manufacture, and growing in any land, open or inclosed, not being a garden, orchard, [pleasure ground,] or nursery ground, shall, on conviction thereof before a justice of the peace, at the discretion of the justice, either be committed to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, for any term not exceeding one month, or else shall forfeit and pay, over and above the value of the article or articles so stolen, or the amount of the injury done, such sum of money not exceeding twenty shillings as to the justice shall seem meet, and in default of payment thereof, together with the costs (if ordered), shall be committed as aforesaid for any term not exceeding one month, unless payment be sooner made; and whosoever, having been convicted of any such offence [either against this or any former act of parliament], shall afterwards commit any of the said offences in this section before mentioned, and shall be convicted thereof in like manner, shall be committed to the common gaol or house of cor-

Second  
offence.



rection, there to be kept to hard labour, for such term not exceeding six months as the convicting justice shall think fit.

This section follows nearly verbatim the 7 & 8 Geo. 4, c. 29, s. 43. This and the Irish Act, 14 & 15 Vict. c. 92, s. 5, are assimilated.

An appeal lies to the quarter sessions, if the conviction be before one justice only, or if (in the case of a second offence) the imprisonment exceeds one month (see *post*, sect. 110); or either party may appeal to one of the superior courts, if dissatisfied with the determination of the justice as being erroneous in point of law: 20 & 21 Vict. c. 43.

As to larceny from mines :

**38.** Whosoever shall steal, or sever with intent to steal, the ore of any metal, or any lapis calaminaris, manganese or mundick, or any wad, black cawke, or black lead, or any coal or cannel coal, from any mine, bed, or vein thereof respectively, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Ore of metal,  
coal, &c.

With the exception of the punishment this section follows nearly verbatim the 7 & 8 Geo. 4, c. 29, s. 37, and the Irish Act 9 Geo. 4, c. 55, s. 30. As to imprisonment and solitary confinement, see *post*, ss. 118, 119.

This offence is triable at quarter sessions.

**39.** Whosoever, being employed in or about any mine, shall take, remove, or conceal any ore of any metal, or any lapis calaminaris, manganese, mundick, or other mineral found or being in such mine, with intent to defraud any proprietor of or any adventurer in such mine, or any workman or miner employed therein, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term

Miners re-  
moving ore  
with intent  
to defraud.

not exceeding two years, with or without hard labour, and with or without solitary confinement.

This provision is taken from the Stannaries Act, 2 & 3 Vict. c. 58, s. 10, and that section is repealed and made general. As to imprisonment and solitary confinement, see *post*, ss. 118, 119.

This offence is triable at quarter sessions.

As to larceny from the person, and other like offences :

Robbery or stealing from the person.

40. Whosoever shall rob any person, or shall steal any [chattel, money, or valuable security (a)], from the person of another, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding fourteen years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

(a) "Property," 7 Will. 4 & 1 Vict. c. 87, s. 5. See "valuable security" defined, *ante*, sect. 1.

Framed on the repealed statute 7 Will. 4 & 1 Vict. c. 87, s. 5. Robbery is the forcible taking of property from the person of another. As to what is a sufficient severance of the property, see *R. v. Simpson*, Dears. C. C. 621; *S. C.*, 24 L. J. (N. S) M. C. 7.

As to imprisonment and solitary confinement, see *post*, ss. 118, 119.

This offence is triable at quarter sessions.

On trial for robbery, jury may convict of an assault with intent to rob.

41. If upon the trial of any person upon any indictment for robbery it shall appear to the jury upon the evidence that the defendant did not commit the crime of robbery, but that he did commit an assault with intent to rob, the defendant shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that the defendant is guilty of an assault

with intent to rob; and thereupon such defendant shall be liable to be punished in the same manner as if he had been convicted upon an indictment for feloniously assaulting with intent to rob; and no person so tried as is herein lastly mentioned shall be liable to be afterwards prosecuted for an assault with intent to commit the robbery for which he was so tried.

This section is identical with the 14 & 15 Vict. c. 100, s. 11, (repealed.)

As to the offence of simply assaulting with intent to rob, see sect. 42, *infra*, but if two or more are jointly indicted for a robbery under sect. 43, or one alone, being armed with an offensive weapon, and he or they are convicted under sect. 41 of the assault with intent to rob, then they are liable to the heavier punishment provided by sect. 43 for such assaults. (See *Reg. v. Mitchell*, 2 Den. C. C. 468, 21 L. J. (N. S.) M. C. 135.)

42. Whosoever shall assault any person with intent to rob shall be guilty of felony, and being convicted thereof shall (save and except in the cases where a greater punishment is provided by this act) be liable, at the discretion of the court, to be kept in penal servitude for the term of three years, or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Assault with intent to rob.

With the exception of the punishment this section follows verbatim the 7 Will. 4 & 1 Vict. c. 87, s. 6.

As to attempts to commit crimes, and the general power to convict of attempts, see the note to sect. 57, *post*.

As to imprisonment and solitary confinement, see *post*, ss. 118, 119.

This offence is triable at quarter sessions.

43. Whosoever shall, being armed with any offensive weapon or instrument, rob, or assault with intent to rob, any person, or shall, together with one or more [other] person or persons, rob, or assault with intent to rob, any person, or shall

Robbery or assault by a person armed, or by two or more, or robbery and wounding.

rob any person, and at the time of or immediately before or immediately after such robbery shall [wound], beat, strike, or use any other personal violence to any person, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life, or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Although this section follows closely the 7 Will. 4 & 1 Vict. c. 87, s. 3, it makes an important alteration in the state of the law with reference to robbery with violence. By the now repealed statute 7 Will. 4 & 1 Vict. c. 87, s. 2, to rob any person, and at the time of, or immediately before, or immediately after such robbery, to stab, cut or wound such person, was a capital felony as distinguished from the offences comprised in sect. 3 and repealed in the above section, and which were punishable with transportation for life. Now, however, the word "wound" has been introduced into the new section, and no other equivalent introduced for sect. 2 of the repealed act. Robbery with wounding is therefore no longer a capital offence.

As to imprisonment and solitary confinement, see *post*, ss. 118, 119.

These offences are not triable at quarter sessions.

44. Whosoever shall send, deliver, [or utter, or directly or indirectly cause to be received (a), knowing the contents thereof,] any letter or writing demanding of any person with menaces, and without any reasonable or probable cause, any [property (b)], chattel, money, valuable security, [or other valuable thing (b)], shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three

(a) See *Reg. v. Grimwade*, 1 Den. C. C. 30.

(b) These words occur in the now repealed statute 10 & 11 Vict. c. 66 (extending the law respecting threatening letters and accusing parties with a view to extort money). See the words "property" and "valuable security" defined, *ante*, sect. 1.

Letter, demanding money, &c. with menaces.

years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Framed on the 7 & 8 Geo. 4, c. 29, s. 8, the language of which ran thus: "If any person shall knowingly send, or deliver, any letter or writing demanding of any person, with menaces and without any reasonable or probable cause, any chattel, money, or valuable security," &c. See the corresponding Irish statute, 9 Geo. 4, c. 55, s. 8. For what is a letter within this section, see *Reg. v. Smith*, 1 Den. C. C. 510; *S. C.*, 19 L. J. (N. S.) M. C. 80. As to imprisonment, solitary confinement and whipping, see *post*, ss. 118, 119.

This offence is not triable at quarter sessions.

45. Whosoever shall with menaces or by force demand any property, chattel, money, valuable security, [or other valuable thing (*a*),] of any person, with intent to steal the same, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for the term of three years, or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Demanding money, &c. with menaces, or by force, with intent to steal.

(*a*) See note (*a*) *ante*, p. 54.

Framed on the 7 Will. 4 & 1 Vict. c. 87, ss. 7, 12. As to imprisonment and solitary confinement, see *post*, ss. 118, 119.

This offence is triable at quarter sessions.

46. Whosoever shall send, deliver, or utter, [or directly or indirectly cause to be received, knowing the contents thereof,] any letter or writing, accusing or threatening to accuse any other person (*a*) of any crime punishable by law with death, or [penal servitude for not less than seven years], or

Letter threatening to accuse of crime, with intent to extort.

(*a*) "If any person shall knowingly send, or deliver, or utter to any other person, any letter or writing, accusing or threatening to accuse either the person to whom such letter or writing shall be sent or delivered, or any other person, of any crime," &c. (10 & 11 Vict. c. 66, s. 1.)

of any assault with intent to commit any rape, or of any attempt or endeavour to commit any rape, or of any infamous crime as hereinafter defined, with a view or intent in any of such cases to extort or gain by means of such letter or writing any property, chattel, money, valuable security (*b*), or other valuable thing, from any person, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life, or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping (*c*); and the abominable crime of buggery, committed either with mankind or with beast, and every assault with intent to commit the said abominable crime, and every attempt or endeavour to commit the said abominable crime, and every solicitation, persuasion, promise, or threat offered or made to any person, whereby to move or induce such person to commit or permit the said abominable crime, shall be deemed to be an infamous crime within the meaning of this act.

“ Infamous crime ” defined.

(*b*) See the definitions of “ property ” and “ valuable security,” *ante*, sect. 1.

(*c*) As to imprisonment, solitary confinement and whipping, see *post*, ss. 118, 119.

Framed on the 7 & 8 Geo. 4, c. 29, s. 8, and the Irish Act, 9 Geo. 4, c. 55, s. 8, and the 10 & 11 Vict. c. 66, s. 1. The definition of “ infamous crime,” follows verbatim the language of the 7 & 8 Geo. 4, c. 29, s. 9, and of the Irish Act, 9 Geo. 4, c. 55, s. 9.

This offence is not triable at quarter sessions.

Accusing or threatening to accuse, with intent to extort.

47. Whosoever shall accuse or threaten to accuse, either the person to whom such accusation or threat shall be made, or any other person, of any of the infamous or other crimes lastly hereinbefore mentioned, with the view or intent in any of the cases

last aforesaid, to extort or gain from such person so accused or threatened to be accused, or from any other person, any property, chattel, money, valuable security, or other valuable thing, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life, or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and, if a male under the age of sixteen years, with or without whipping.

Framed on the 10 & 11 Vict. c. 66, s. 2, in which the previous analogous provisions of the 7 & 8 Geo. 4, c. 29, part of sect. 8, and the 7 Will. 4 & 1 Vict. c. 87, s. 4, were merged. See also the Irish Act, 9 Geo. 4, c. 55, s. 8.

As to whipping see *post*, s. 119. The power to give solitary confinement as a part of the sentence is (probably inadvertently) omitted.

This offence is not triable at quarter sessions.

48. [Whosoever, with intent to defraud or injure any other person, shall, by any unlawful violence to or restraint of, or threat of violence to or restraint of, the person of another, or by accusing or threatening to accuse any person of any treason, felony, or infamous crime as hereinbefore defined, compel or induce any person to execute, make, accept, indorse, alter, or destroy the whole or any part of any valuable security, or to write, impress, or affix his name, or the name of any other person, or of any company, firm, or copartnership, or the seal of any body corporate, company, or society, upon or to any paper or parchment, in order that the same may be afterwards made or converted into, or used or dealt with as, a valuable security, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life, or for any term not less than three years,—or to be

Inducing a person by violence or threats to execute deeds, &c., with intent to defraud.

imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.]

This provision is new. As to imprisonment and solitary confinement, see *post*, ss. 118, 119. This offence is not triable at quarter sessions.

It shall be immaterial from whom the menaces proceed.

49. [It shall be immaterial whether the menaces or threats hereinbefore mentioned be of violence, injury, or accusation, to be caused or made by the offender or by any other person.]

This provision is also new.

As to sacrilege, burglary, and housebreaking :

Breaking and entering a church or chapel and committing any felony.

50. Whosoever shall break and enter any church, chapel, [meeting house, or other place of divine worship,] and commit [any felony therein], or being in any church, chapel, [meeting house, or other place of divine worship,] shall commit [any felony] therein and break out of the same, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life, or for any term not less than three years, — or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Framed on the 7 & 8 Geo. 4, c. 29, s. 10 (and the corresponding section of the Irish Act, 9 Geo. 4, c. 51 which enacted "That if any person shall break and enter a church or chapel, and steal therein any chattel, or stolen any chattel in any church or chapel, shall be guilty of felony, and being convicted thereof shall suffer death as a felon." It will be seen that the provision has a more extended operation both as regards the crime and the punishment. As to imprisonment and solitary confinement see *post*, ss. 118, 119.

This offence is not triable at quarter sessions.

Burglary by breaking out.

51. Whosoever shall enter the dwelling-house of another with intent to commit [any] felony

(a) As to what constitutes part of a dwelling-house see sect. 53.



in], or being in such dwelling-house shall commit any felony [therein], and shall in either case break out of the said dwelling-house in the night (a), shall be deemed guilty of burglary.

(a) Between 9 p.m. and 6 a.m. See *ante*, sect. 1.

Framed on the 7 & 8 Geo. 4, c. 29, s. 11, and the corresponding Irish Act, 9 Geo. 4, c. 55, s. 11. To constitute burglary at common law, there must be a breaking into the house. See the note to the next section.

52. Whosoever shall be convicted of the crime Burglary. of burglary, shall be liable, at the discretion of the court, to be kept in penal servitude for life, or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

The punishment for burglary remains the same as heretofore, but a question of some practical importance arises on this part of the act. The common law offence of burglary, viz., the breaking and entering a dwelling-house in the night-time with intent to commit a felony, is not dealt with except for the purpose of stating the punishment, so that apparently all the ingredients of the offence remain untouched, and before the statute 7 Will. 4 & 1 Vict. c. 86, nice questions arose as to whether the offence was committed in the night-time, for if it were done after dawn or in the twilight when there was light enough to "see a man's face," the crime did not amount to burglary. The 7 Will. 4 & 1 Vict. c. 86, s. 4, enacted "That *so far as the same is essential to the crime of burglary*, the night shall be considered and is hereby declared to commence at nine of the clock in the evening of each day, and to conclude at six of the clock in the morning of the next succeeding day." This statute is now repealed, (see *ante*, p. 16,) and the only substitution for this provision is contained in the interpretation clause of the present act, that "*for the purposes of this act*, the night shall be deemed to commence at nine of the clock in the evening of each day, and to conclude at six of the clock in the morning of the next succeeding day." The word "night," however, is not to be found in the act in reference to the common law offence of burglary, but only in connection with the statutable offence of breaking out of the house. It is therefore open to contention that the old law, as to what constitutes night, obtains in reference to the offence of breaking *into* a house. Perhaps the objection may be met by expanding the word "bur-

glary" to its legal definition of "breaking into a house by night," and so reading the section as including the word "night."

As to imprisonment and solitary confinement, see *post*, ss. 118, 119.

This offence is not triable at quarter sessions.

What building within the curtilage shall be deemed part of the dwelling-house.

53. No building, although within the same curtilage with any dwelling-house, and occupied therewith, shall be deemed to be part of such dwelling-house for any (a) of the purposes of this act, unless there shall be a communication between such building and dwelling-house, either immediate, or by means of a covered and inclosed passage leading from the one to the other.

(a) The words ["for the purpose of burglary or"] which are to be found inserted at this place in the corresponding section of the 7 & 8 Geo. 4, c. 29, s. 13, seem to have been omitted here somewhat unadvisedly; the omission may give rise to a similar question to that discussed in the note to sect. 52; for as "dwelling-house" is not mentioned in connection with the common law offence of burglary, it may be intended that this section does not apply to that offence.

Framed on the 7 & 8 Geo. 4, c. 29, s. 13, and the corresponding Irish Act, 9 Geo. 4, c. 55, s. 13.

Entering a dwelling-house in the night with intent to commit any felony.

54. [Whosoever shall enter any dwelling-house (b) in the night (c), with intent to commit any felony therein, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years, and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.]

(b) See sect. 53.

(c) Between 9 p.m. and 6 a.m.; see *ante*, s. 1.

Burglary break

This provision is new, but the offence would in almost every case be indictable and punishable as a misdemeanor at common law, that is to say, as an attempt to commit a felony. See the note to sect. 57.

As to imprisonment and solitary confinement, see *post*, ss. 118, 119.

This offence is triable at quarter sessions.

**55.** Whosoever shall break and enter any building, and [commit any felony therein,] such building being within the curtilage of a dwelling-house, and occupied therewith, but not being part thereof, according to the provision hereinbefore mentioned, [or being in any such building shall commit any felony therein, and break out of the same,] shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding fourteen years, and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Breaking into any building within the curtilage which is no part of the dwelling-house and committing any felony.

Framed on the 7 & 8 Geo. 4, c. 29, s. 14, and the corresponding Irish Act, 9 Geo. 4, c. 55, s. 14.

As to imprisonment and solitary confinement, see *post*, ss. 118, 119.

This offence is triable at quarter sessions.

**56.** Whosoever shall break and enter any dwelling-house (*a*), [school-house], shop, warehouse, or counting-house, and commit any felony therein, [or being in any dwelling-house, school-house, shop, warehouse, or counting-house (*b*), shall commit any felony therein, and break out of the same], shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding fourteen years, and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Breaking into any house, shop, warehouse, &c., and committing any felony.

(*a*) See sect. 53.

(*b*) As to what is a counting-house, see *Reg. v. Potter*, 2 Den. C. C. 235; 20 Law J. (N. S.) M. C. 170.

Framed on the 7 & 8 Geo. 4, c. 29, ss. 12, 15, and the corresponding Irish Act, 9 Geo. 4, c. 55, ss. 12, 15. The punishment being now the same, sect. 55 might have been amalgamated with this section. The distinction tends to confuse.

As to imprisonment and solitary confinement, see *post*, ss. 118, 119.

This offence is triable at quarter sessions.

House-breaking, &c. with intent to commit any felony.

57. [Whosoever shall break and enter any dwelling-house, church, chapel, meeting-house, or other place of divine worship, or any building within the curtilage, school-house, shop, warehouse, or counting-house, with intent to commit any felony therein, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years, and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.]

This provision is new. The attempt, however, to commit a felony is itself at common law an indictable misdemeanor, and therefore punishable by imprisonment, which (by the 3 Geo. 4, c. 114) may be with hard labour, and although the accused could not at common law be convicted of the attempt on an indictment charging him with the felony, yet under the statute 14 & 15 Vict. c. 100, s. 9, (unrepealed,) upon an indictment for the actual commission of the offence, the accused may be convicted of the attempt. That section, after reciting that "Whereas offenders often escape conviction by reason that such persons ought to have been charged with attempting to commit offences, and not with the actual commission thereof," enacts "That if, on the trial of any person charged with any felony or misdemeanor, it shall appear to the jury upon the evidence that the defendant did not complete the offence charged, but that he was guilty only of an attempt to commit the same, such person shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that the defendant is not guilty of the felony or misdemeanor charged, but is guilty of an attempt to commit the same, and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for attempting to commit the particular felony or misdemeanor charged in the said indictment; and no person so tried as herein lastly mentioned shall be liable to be afterwards prosecuted for an attempt to commit the felony or misdemeanor for which he was so tried."

It is scarcely necessary to observe that the power thus given to convict of an attempt, is not confined to those cases where the attempt is specially provided for, but extends to all cases where the attempt is only punishable by the common law.

The principal effect, therefore, of the section now introduced into the new act is to make that a felony which would be otherwise a misdemeanor, and to regulate the punishment for it.

Nevertheless, that is not its entire scope, for there are some cases in which the accused may be convicted under the new provision when he might otherwise escape, for the offence of attempting to commit a felony consists in doing that which would result, if the offender were not prevented, in the actual commission of the offence; and, on the other hand, there may be an intention to do a thing which, apart from any interference, could never result in the actual completion of the offence. This distinction arose in the case of *The Queen v. M'Pherson*, 26 L. J. (N. S.) M. C. 134, S. C. 1 Dears. & B. 197, where the defendant was indicted for breaking into a house and stealing certain specific things. It turned out that although the prisoner did break into the house with the intention to steal, yet that he did not take anything, for the house having been left for some days without any one in it, some other thieves had broken in previously and stolen the articles in question. It was held that the prisoner could not be convicted under sect. 9 of the 14 & 15 Vict. c. 100, of attempting to steal the articles mentioned in the indictment, for the articles were not there to be stolen, although, it seems, he might have been convicted on an indictment for the common law misdemeanor of attempting to commit a felony. Under the above circumstances, the prisoner might now be convicted of the statutable felony under sect. 57, provided the indictment contained a count framed under it.

As to imprisonment and solitary confinement, see *post*, ss. 118, 119.

This offence is triable at quarter sessions.

58. Whosoever shall be found by night (*a*) armed with any dangerous or offensive weapon, or instrument whatsoever, with intent to break or enter into any dwelling-house or other building whatsoever, and to commit any felony therein, or shall be found by night having in his possession without lawful excuse (the proof of which excuse shall lie on such person) any picklock key (*b*), crow, jack, bit, or other

Being armed with intent to break and enter any house in the night.

(*a*) Between 9 p.m. and 6 a.m., see *ante*, s. 1.

(*b*) "Picklock" and "key," are to be read as distinct words. *Reg. v. Oldham*, 2 Den. C. C. 472; 21 L. J. (N. S.) M. C. 134.

implement of housebreaking (*a*), or shall be found by night having his face blackened or otherwise disguised with intent to commit any felony, or shall be found by night in any dwelling-house or other building whatsoever, with intent to commit any felony therein, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for the term of three years, or to be imprisoned for any term not exceeding two years, with or without hard labour.

(*a*) The intent to commit a felony does not constitute any part of this particular offence, and therefore need not be alleged. *Reg. v. Bailey*, Dears. C. C. 224; 23 L. J., M. C. 13.

This section follows nearly verbatim the 14 & 15 Vict. c. 19, s. 1. As to attempts to commit offences, see the note to s. 57, *ante*, p. 62.

This offence is triable at quarter sessions.

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lony, &c.

**59.** Whosoever shall be convicted of any such misdemeanor, as in the last preceding section mentioned, committed after a previous conviction, either for felony or such misdemeanor, shall on such subsequent conviction be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding ten years, and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour.

Framed on the 14 & 15 Vict. c. 19, s. 2.

This offence is triable at quarter sessions. As to the procedure on the trial, see *post*, s. 116.

As to larceny in the house :

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lue of 5*l*.

**60.** Whosoever shall steal in any dwelling-house (*b*) any chattel, money, or valuable security (*c*), to the value in the whole of five pounds or more, shall be guilty of felony, and being convicted thereof shall

(*b*) See sect. 53.

(*c*) See sect. 1.

be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding fourteen years, and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Framed on the 7 & 8 Geo. 4, c. 29, s. 12, and the corresponding Irish Act, 9 Geo. 4, c. 55, s. 12. As to imprisonment and solitary confinement, see *post*, ss. 118, 119.

This offence is triable at quarter sessions.

61. Whosoever shall steal any chattel, money, or valuable security (*a*) in any dwelling-house (*b*), and shall by any menace or threat, put any one being therein in bodily fear, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding fourteen years, and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Stealing in a dwelling-house with menaces.

(*a*) See sect. 1.

(*b*) See sect. 53.

Framed on the 7 Will. 4 & 1 Vict. c. 86, s. 5. See as to imprisonment and solitary confinement, *post*, ss. 118, 119.

This offence is triable at quarter sessions.

As to larceny in manufactories :

62. Whosoever shall steal, to the value of ten shillings, any [woollen, linen, hempen, or cotton yarn], or any goods or article of silk, woollen, linen, cotton, [alpaca, or mohair,] or of any one or more of those materials mixed with each other, or mixed with any other material, whilst laid, placed, or exposed, during any stage, process, or progress of manufacture, in any building, field, or other place, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to

Stealing goods in process of manufacture.

be kept in penal servitude for any term not exceeding fourteen years, and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Framed on the 7 & 8 Geo. 4, c. 29, s. 16, and the corresponding Irish Act, 9 Geo. 4, c. 55, s. 16. See as to imprisonment and solitary confinement, *post*, ss. 118, 119.

This offence is triable at quarter sessions.

As to larceny in ships, wharfs, &c. :

Stealing  
from ships,  
docks,  
wharfs, &c.

63. Whosoever shall steal any goods or merchandise in any vessel, barge or boat of any description whatsoever [in any haven or] in any port of entry or discharge, or upon any navigable river or canal, or in any creek or basin belonging to or communicating with any such [haven], port, river or canal, or shall steal any goods or merchandise from any dock, wharf or quay adjacent to any such [haven], port, river, canal, creek or basin, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding fourteen years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Framed on the 7 & 8 Geo. 4, c. 29, s. 17, and the corresponding Irish Act, 9 Geo. 4, c. 55, s. 17. See as to imprisonment and solitary confinement, *post*, ss. 118, 119.

This offence is triable at quarter sessions.

Stealing  
from ship in  
distress or  
wrecked.

64. Whosoever shall plunder or steal any part of any ship or vessel which shall be in distress, or wrecked, stranded or cast on shore, or any goods, merchandise or articles of any kind belonging to such ship or vessel, shall be guilty of felony, and being convicted thereof shall be liable, at the dis-



cretion of the court, to be kept in penal servitude for any term not exceeding fourteen years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement (a); [and the offender may be indicted and tried either in the county or place in which the offence shall have been committed, or in any county or place next adjoining].

(a) See *post*, ss. 118, 119.

Framed on the 7 Will. 4 & 1 Vict. c. 87, s. 8.  
This offence is triable at quarter sessions.

65. If any goods, merchandise or articles of any kind, belonging to any ship or vessel in distress, or wrecked, stranded or cast on shore, shall be found in the possession of any person, or on the premises of any person with his knowledge, and such person, being taken or summoned before a justice of the peace, shall not satisfy the justice that he came lawfully by the same, then the same shall, by order of the justice, be forthwith delivered over to or for the use of the rightful owner thereof; and the offender shall, on conviction of such offence before the justice, [at the discretion of the justice, either be committed to the common gaol or house of correction, there to be imprisoned only, or be imprisoned and kept to hard labour, for any term not exceeding six months, or else shall] forfeit and pay, over and above the value of the goods, merchandise or articles, such sum of money not exceeding twenty pounds, as to the justice shall seem meet.

Persons in possession of shipwrecked goods not giving a satisfactory account.

Framed on the 7 & 8 Geo. 4, c. 29, s. 19. This provision and the Irish Act, 14 & 15 Vict. c. 92, s. 4, are assimilated. An appeal lies to the quarter sessions if the conviction be before one justice only, or if the sum adjudged to be paid exceeds 5*l.*, or if the imprisonment exceeds one month, (see

*post*, s. 110); or either party may appeal to one of the superior courts, if dissatisfied with the determination of the justice, as being erroneous in point of law : 20 & 21 Vict. c. 43.

If any person offers ship-wrecked goods for sale, the goods may be seized, &c.

66. If any person shall offer or expose for sale any goods, merchandise or articles whatsoever, which shall have been unlawfully taken, or shall be reasonably suspected so to have been taken, from any ship or vessel in distress, or wrecked, stranded or cast on shore, in every such case any person to whom the same shall be offered for sale, or any officer of the customs or excise, or peace officer, may lawfully seize the same, and shall with all convenient speed carry the same, or give notice of such seizure, to some justice of the peace ; and if the person who shall have offered or exposed the same for sale, being summoned by such justice, shall not appear and satisfy the justice that he came lawfully by such goods, merchandise or articles, then the same shall, by order of the justice, be forthwith delivered over to or for the use of the rightful owner thereof, upon payment of a reasonable reward (to be ascertained by the justice) to the person who seized the same ; and the offender shall, on conviction of such offence by the justice, [at the discretion of the justice, either be committed to the common gaol or the house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, for any term not exceeding six months, or else shall] forfeit and pay, over and above the value of the goods, merchandise or articles, such sum of money not exceeding twenty pounds as to the justice shall seem meet.

Framed on the 7 & 8 Geo. 4, c. 29, s. 20, and the Irish Act, 14 & 15 Vict. c. 92, s. 4. An appeal lies if the conviction be before one justice only, or if the sum adjudged to be paid exceeds 5*l.*, or if the imprisonment exceeds one month ; or either party may appeal to one of the superior courts, if dis-

satisfied with the determination of the justice, as being erroneous in point of law: 20 & 21 Vict. c. 43.

As to larceny or embezzlement by clerks, servants, or persons in the public service :

67. Whosoever, being a clerk or servant, [or being employed for the purpose or in the capacity of a clerk or servant,] shall steal any chattel, money or valuable security (a) belonging to or in the possession or power of his master [or employer], shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding fourteen years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Larceny by clerks or servants.

(a) See *ante*, sect. 1.

Framed on the 7 & 8 Geo. 4, c. 29, s. 46, and the corresponding Irish Act, 9 Geo. 4, c. 55, s. 39. See the note to the next section. Under this section the property or money must have been in the master's possession, see *Reg. v. Wright*, 27 L. J., M. C. 65. This provision does not create any new offence, but only increases the punishment. See the note to the next section.

As to imprisonment, solitary confinement and whipping, see *post*, ss. 118, 119.

This offence is triable at quarter sessions.

68. Whosoever, being a clerk or servant, or being employed for the purpose or in the capacity of a clerk or servant (b), shall fraudulently embezzle any

Embezzlement by clerks or servants.

(b) For the last of the numerous cases on the question of what persons do or do not fall within this definition, see *Reg. v. Walker*, 27 L. J. (N. S.) M. C. 207; *Reg. v. May*, 30 L. J. (N. S.) M. C. 81, (commission agents); *Reg. v. Tongue*, 30 L. J. (N. S.) M. C. 49, (secretary to a money club); *Reg. v. Tite*, *Id.* 142, (traveller for orders); *Reg. v. Bayley*, 26 L. J. (N. S.) M. C. 4, (clerk to several railway companies).

chattel, money or valuable security (a), which shall (b) be [delivered to or] received or taken into possession by him for or in the name or on the account (c) of his master [or employer], or any part thereof, shall be deemed to have feloniously stolen the same from his master [or employer], although such chattel, money or security was not received into the possession of such master [or employer] otherwise than by the actual possession of his clerk, servant, or other person so employed, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding fourteen years, and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

(a) See sect. 1.

(b) The words "by virtue of such employment" occurred in the repealed statute 7 & 8 Geo. 4, c. 29, s. 47, and the embezzlement of money by a servant not authorized to receive the money was not within the statute; see the cases on this point collected, Archbold's Pleading and Evidence in Criminal Cases, 14th ed. pp. 382, 383. The omission avoids this technical distinction; still it must be the master's money which is received by the servant, and not money wrongfully received by the servant by means of false pretences or otherwise.

(c) The receipt must be for or in the name or on account of the master, *Reg. v. Beaumont*, 23 L. J., M. C. 54; *Reg. v. Harris*, Id. 110; but the receipt may be in the name of one person, and yet on account of another, who is the master; see *Reg. v. Thorpe*, 1 Dears. & B. 562; 27 L. J. (N. S.) M. C. 264.

Framed on the 7 & 8 Geo. 4, c. 29, s. 47, and the corresponding Irish Act, 9 Geo. 4, c. 55, s. 40. Although a servant, who entrusted by his master with goods fraudulently appropriates them to his own use, is guilty of larceny, for the possession of the servant is in law the possession of the master, yet where goods or money of which the master has never had the possession are delivered by a third person to the servant for the master's use, this, by a refined distinction, is not larceny, and therefore required a special enactment; recent cases illustrate the distinction. A foreman employed to sell goods

for his master sold some and received the price, and concealed the transaction, and made use of the money. He could not be convicted of stealing the *goods*, for the sale was a good sale as between the master and customer, and he could not be convicted of *stealing* the money, for the master never had the possession. His real offence was embezzling the money. *Reg. v. Betts*, 28 L. J. (N. S.) M. C. 69. On the other hand, where goods duly purchased by a servant for his master were placed in the master's care, and the servant took them, it was held that the master's possession had commenced, and therefore the offence was stealing; *Reg. v. Reed*, 23 L. J., M. C. 25; and see *Reg. v. Watts*, 19 L. J., M. C. 193.

Although the evidence of embezzlement frequently consists, in part, of proof that the accused has omitted to debit himself with the money received, yet even if a clerk has charged himself in his books with the receipt of the money, the fraudulent appropriation of such money is embezzlement; *Reg. v. Guelder*, 30 L. J. (N. S.) M. C. 34; *R. v. Lister*, 26 Id. 26.

As to where (*i. e.* the county) the offence of embezzling can be said to have been committed, see *Reg. v. Murdock*, 2 Den. C. C. 298; 21 L. J. (N. S.) M. C. 22, and cases there cited.

As to imprisonment, solitary confinement and whipping, see *post*, ss. 118, 119.

This offence is triable at quarter sessions.

69. [Whosoever, being employed in the public service of her majesty, or being a constable or other person employed in the police of any county, city, borough, district or place whatsoever, shall steal any chattel, money or valuable security (a) belonging to or in the possession or power of her majesty, or intrusted to or received or taken into possession by him by virtue of his employment, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding fourteen years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.]

Larceny by persons in the queen's service or by the police.

(a) See sect. 1.

This is a new provision, framed probably in reference to the case of *Reg. v. Moah*, Dears. C. C. 626; 25 L. J., M. C. 66.

As to imprisonment and solitary confinement, see *post*, ss. 118, 119.

Embezzlement by persons in the queen's service, or by the police.

70. Whosoever, being employed in the public service of her majesty, or being a constable or other person employed in the police of any county, city, borough, district or place whatsoever, and intrusted by virtue of such employment with the receipt, custody, management or control of any chattel, money or valuable security (*a*), shall embezzle [any chattel, money or valuable security which shall be intrusted to or received or taken into possession by him by virtue of his employment], or any part thereof, or in any manner fraudulently apply or dispose of the same or any part thereof to his own use or benefit, or for any purpose whatsoever except for the public service, shall be deemed to have feloniously stolen the same from her majesty, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding fourteen years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour (*b*); and every offender against this [or the last preceding] section may be dealt with, indicted, tried and punished either in the county or place in which he shall be apprehended or be in custody, or in which he shall have committed the offence; and in every case of larceny, embezzlement or fraudulent application or disposition of any chattel, money or valuable security in this and the last preceding section mentioned, it shall be lawful, in the warrant of commitment by the justice of the peace before whom the offender shall be charged, and in the indictment to be preferred against such offender, to lay the property of any such chattel, money or valuable security in her majesty.

Venue.

(*a*) See *ante*, sect. 1.

(*b*) See *post*, ss. 118, 119.

Framed on the 2 & 3 Will. 4, c. 4, ss. 1, 4, 5, (for preventing embezzlements by persons employed in the public service,) and on the 22 & 23 Vict. c. 32, s. 25, (to amend the law concerning the police).

This offence is triable at quarter sessions.

**71.** For preventing difficulties in the prosecution of offenders in any case of embezzlement, fraudulent application or disposition hereinbefore mentioned, it shall be lawful to charge in the indictment and proceed against the offender for any number of distinct acts of embezzlement or of fraudulent application or disposition not exceeding three, which may have been committed by him against her majesty, or against the same master or employer, within the space of six months from the first to the last of such acts; and in every such indictment [where the offence shall relate to any money or any valuable security (*a*)] it shall be sufficient to allege the embezzlement or fraudulent application or disposition to be of money, without specifying any particular coin or valuable security; and such allegation, so far as regards the description of the property, shall be sustained if the offender shall be proved to have embezzled or fraudulently applied or disposed of any amount, although the particular species of coin or valuable security of which such amount was composed shall not be proved; or if he shall be proved to have embezzled or fraudulently applied or disposed of any piece of coin or any valuable security, or any portion of the value thereof, although such piece of coin or valuable security may have been delivered to him in order that some part of the value

Distinct acts of embezzlement may be charged in the same indictment.

(*a*) See sect. 1. The repealed statute 7 & 8 Geo. 4, c. 29, s. 48, instead of the words bracketed, had "except where the offence shall relate to any chattel."

thereof should be returned to the party delivering the same [or to some other person], and such part shall have been returned accordingly.

Framed on the 7 & 8 Geo. 4, c. 29, s. 48, and the corresponding Irish Act, 9 Geo. 4, c. 55, s. 41, and also on the repealed statute 2 & 3 Will. 4, c. 4, s. 3, (for preventing embezzlement by persons in the public service).

See the 14 & 15 Vict. c. 100, s. 18, *post*, note to s. 88, as to the description in indictments of coin and bank notes still in force. In embezzlement, as in other cases of stealing, only one act of embezzlement could be included in the same indictment; and as the jury had only one instance of misappropriation before them, the accused often escaped, the jury imputing the solitary act to mistake or carelessness.

Persons indicted for embezzlement as a clerk, &c. (4) to be acquitted if the offence turn out to be larceny; and vice versa.

72. If upon the trial of any person indicted for embezzlement [or fraudulent application or disposition as aforesaid], it shall be proved that he took the property in question in any such manner as to amount in law to larceny, he shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that such person is not guilty of embezzlement [or fraudulent application or disposition], but is guilty of simple larceny, or of larceny as a clerk, servant or person employed for the purpose or in the capacity of a clerk or servant, [or as a person employed in the public service, or in the police,] as the case may be; and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for such larceny; and if upon the trial of any person indicted for larceny it shall be proved that he took the property in question in any such manner as to amount in law to embezzlement, [or fraudulent application or disposition as aforesaid,] he shall not by reason thereof be entitled to be acquitted, but the jury

(a) The word "not" has been omitted here.



shall be at liberty to return as their verdict that such person is not guilty of larceny, but is guilty of embezzlement, [or fraudulent application or disposition, as the case may be,] and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for such embezzlement, [fraudulent application or disposition;] and no person so tried for embezzlement, [fraudulent application or disposition,] or larceny as aforesaid, shall be liable to be afterwards prosecuted for larceny, [fraudulent application or disposition,] or embezzlement, upon the same facts.

Framed on the 14 & 15 Vict. c. 100, s. 13, and extended by the words in brackets to cases included in sect. 70. A provision that a person guilty of embezzlement might be convicted upon an indictment for larceny as a clerk or servant, would be more simple. It would be necessary to describe the offender as a clerk or servant, &c. (as under sect. 67), as a conviction for simple larceny would not warrant a sentence of fourteen years' penal servitude. In other respects the provision in case of fraudulent bailees (*ante*, sect. 3) might be advantageously extended to this case. As the law now stands, a person indicted for stealing, cannot, on evidence showing him guilty of embezzlement, be convicted of stealing, though he may, on such evidence on the same indictment, be convicted of embezzlement. See *Reg. v. Gorbutt*, 26 L. J. (N. S.) M. C. 47.

73. Whosoever, being an officer or servant of the governor and company of the bank of England or of the bank of Ireland, and being intrusted with any bond, deed, note, bill, dividend warrant, or warrant for payment of any annuity or interest, or money, or with any security, money, or other effects of or belonging to the said governor and company, or having any bond, deed, note, bill, dividend warrant, or warrant for payment of any annuity or interest, or money, or any security, money, or other effects of any other person, body politic or

Embezzlement by officers of the bank of England or Ireland.

corporate, lodged or deposited with the said governor and company, or with him as an officer or servant of the said governor and company, shall secrete, embezzle or run away with any such bond, deed, note, bill, dividend or other warrant, security, money, or other effects as aforesaid, or any part thereof, shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Framed on the now repealed provisions of the 37 Geo. 3, c. 46, s. 6; 35 Geo. 3, c. 66, s. 6; 15 Geo. 2, c. 13, s. 12, and on the Irish Act, 21 & 22 Geo. 3, c. 16, s. 16. These provisions are now assimilated. As to imprisonment and solitary confinement, see *post*, ss. 118, 119.

This offence is not triable at quarter sessions.

#### As to larceny by tenants or lodgers :

Tenant or lodger stealing chattel or fixture let to hire with house or lodgings.

74. Whosoever shall steal any chattel or fixture let to be used by him or her in or with any house or lodging, whether the contract shall have been entered into by him or her or by her husband, or by any person on behalf of him or her or her husband, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping (*a*), and in case the value of such chattel or fixture shall exceed the sum of five pounds, shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding

seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping (a); and in every case of stealing any chattel in this section mentioned, it shall be lawful to prefer an indictment in the common form as for larceny, and in every case of stealing any fixture in this section mentioned to prefer an indictment in the same form as if the offender were not a tenant or lodger (b), and in either case to lay the property in the owner or person letting to hire.

(a) See *post*, ss. 118, 119.

(b) That is to say, in the case of a fixture, the indictment may be in the same form as under sect. 31.

This section is framed on the 7 & 8 Geo. 4, c. 29, s. 45, and on the corresponding Irish Act, 9 Geo. 4, c. 55, s. 38; and on the 12 & 13 Vict. c. 11, s. 2; but, nevertheless, it departs essentially from the principle of the law on this subject as it heretofore stood. The 7 & 8 Geo. 4, c. 29, s. 45, "for the punishment of depredations committed by tenants and lodgers," made the stealing by them of any chattel or fixture a felony, punishable *as in the case of simple larceny*, which was at that time transportation for seven years, or imprisonment not exceeding two years. Then the 12 & 13 Vict. c. 11, s. 1, took away the power of transportation for simple larceny, and for all offences made punishable like simple larceny; but sect. 2 reserved the power of transportation in the case of tenants and lodgers stealing articles above the value of 5*l.* The present act, while it gives penal servitude for simple larceny (see *ante*, s. 4 and *note*), confines the punishment for larceny by lodgers under 5*l.*, to imprisonment. It is the only felony, so far as regards stealing, not punishable with penal servitude. This is contrary to the general policy of the law, which has been to punish more severely those offences which, in addition to stealing, involve a breach of trust. This discrepancy, so far as regards the punishment of penal servitude for simple larceny, is attributable to the alteration made in sect. 4 at a later stage of the bill (see the note to that section, *ante*, p. 25). But there is a graver objection to sect. 74, viz., that it empowers a sentence of penal servitude for seven years upon an indictment which, in form, does not warrant that sentence. This is contrary not merely to the technical rules of criminal pleading, but to the due protection of the accused;

for a man may be sentenced to seven years' penal servitude, when the court has no power to award penal servitude at all, and yet the proceedings, on their face, will not show the error.

Probably the best course to adopt will be to frame the indictment as if nothing was said in the section as to its form, and so avoid any difficulty in awarding the statutable punishment for each particular case.

This offence is triable at quarter sessions.

As to frauds by agents, bankers or factors :

Agent,  
banker, &c.  
embezzling  
money or  
selling se-  
curities, &c.  
intrusted  
to him;

75. Whosoever, having been intrusted, [either solely or jointly with any other person,] as a banker, merchant, broker, attorney or other agent, with any money or security for the payment of money, with any direction in writing to apply, [pay or deliver] such money or security [or any part thereof respectively], or the proceeds or any part of the proceeds of such security, for any purpose [or to any person] specified in such direction, shall, in violation of good faith, and contrary to the [terms of such direction (*a*),] in anywise convert to his own use or benefit, [or the use or benefit of any person other than the person by whom he shall have been so intrusted,] such money, security or proceeds, or any part thereof respectively; and whosoever, having been intrusted, [either solely or jointly with any other person,] as a banker, merchant, broker, attorney or other agent, with any chattel or valuable security (*b*), or any power of attorney for the sale or transfer of any share or interest in any public stock or fund, whether of the united kingdom, [or any part thereof,] or of any foreign state, or in any [stock or] fund of any body corporate, company or society, for safe custody or for any special purpose, without any authority to

er goods, &c.  
intrusted to  
him for safe  
custody.

(*a*) "Purpose so specified," 7 & 8 Geo. 4, c. 29, s. 49.

(*b*) See the definition of "valuable security," *ante*, sect. 1.

sell, negotiate, transfer or pledge, shall, in violation of good faith, and contrary to the object or purpose for which such chattel, security or power of attorney shall have been intrusted to him, sell, negotiate, transfer, pledge or in any manner convert to his own use or benefit [or the use or benefit of any person other than the person by whom he shall have been so intrusted,] such chattel or security, or the proceeds of the same, or any part thereof; or the share or interest in the stock or fund to which such power of attorney shall relate, or any part thereof, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement (a); but nothing in this section contained relating to agents shall affect any trustee in or under any instrument whatsoever, or any mortgagee of any property, real or personal, in respect of any act done by such trustee or mortgagee in relation to the property comprised in or affected by any such trust or mortgage; nor shall restrain any banker, merchant, broker, attorney or other agent from receiving any money which shall be or become actually due and payable upon or by virtue of any valuable security (b), according to the tenor and effect thereof, in such manner as he might have done if this act had not been passed; nor from selling, transferring or otherwise disposing of any securities or effects in his possession upon

Punishment.

Not to affect trustees or mortgagees;

nor bankers, &amp;c. receiving money due on securities;

or disposing of securities on which they have a lien.

(a) See *post*, ss. 118, 119.(b) See the definition of "valuable security," *ante*, s. 1.

which he shall have any lien, claim or demand entitling him by law so to do, unless such sale, transfer or other disposal shall extend to a greater number or part of such securities or effects than shall be requisite for satisfying such lien, claim or demand.

Framed on the 7 & 8 Geo. 4, c. 29, ss. 49, 50, and the corresponding Irish Act, 9 Geo. 4, c. 55, s. 42, see ss. 85, 86, *post*.

The offence in this section cannot be tried at quarter sessions. See sect. 87, *post*.

Bankers, &c. fraudulently selling, &c. property intrusted to their care.

76. Whosoever, being a banker, merchant, broker, attorney or agent, and being intrusted, [either solely or jointly with any other person,] with the property (a) of any other person for safe custody, shall, with intent to defraud, sell, negotiate, transfer, pledge or in any manner convert or appropriate the same or any part thereof to or for his own use [or benefit, or the use or benefit of any person other than the person by whom he was so intrusted,] shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to any of the punishments which the court may award as hereinbefore last mentioned.

(a) See the definition of "property," *ante*, sect. 1.

Framed on the recent, but now repealed, Fraudulent Trustee Act, 20 & 21 Vict. c. 54, s. 2. See ss. 85, 86, *post*.

This misdemeanor cannot be tried at quarter sessions. See sect. 87, *post*.

Persons under powers of attorney fraudulently selling property.

77. Whosoever, being intrusted, [either solely or jointly with any other person,] with any power of attorney for the sale or transfer of any property (b), shall fraudulently sell or transfer or otherwise con-

(b) See *ante*, sect. 1.

vert the same or any part thereof to his own use or benefit, [or the use or benefit of any person other than the person by whom he was so intrusted,] shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to any of the punishments (*a*) which the court may award as hereinbefore last mentioned.

(*a*) See sect. 75.

Framed on the Fraudulent Trustee Act, 20 & 21 Vict. c. 54, s. 3. See ss. 85, 86, *post*.

This misdemeanor cannot be tried at quarter sessions. See sect. 87, *post*.

78. Whosoever, being a factor or agent intrusted (*b*), [either solely or jointly with any other person,] for the purpose of sale or otherwise, with the possession (*b*) of any goods, or of any document of title to goods (*c*), shall, contrary to or without the authority of his principal in that behalf, for his own [use or] benefit, [or the use or benefit of any person other than the person by whom he was so intrusted,] and in violation of good faith, make any consignment, deposit, transfer or delivery of any goods or document of title so intrusted to him as in this section before mentioned, as and by way of a pledge (*b*), lien or security for any money or valuable security [borrowed or received by such factor or agent at or before the time of making such consignment, deposit, transfer or delivery, or intended to be thereafter borrowed or received,] or shall, contrary to or without such authority, for his own [use or] benefit, [or the use or benefit of any person other than the per-

Factors obtaining advances on the property of their principals.

(*b*) See sect. 79, *infra*.

(*c*) See the definition of the term "document of title to goods," *ante*, sect. 1.

son by whom he was so intrusted,] and in violation of good faith, accept any advance (a) [of any money or valuable security (b)] on the faith of any contract or agreement (a) to consign, deposit, transfer or deliver [any] such goods or document of title, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to any of the punishments which the court may award as hereinbefore last mentioned (c); and every clerk or other person who shall knowingly and wilfully act and assist in making any such consignment, deposit, transfer or delivery, or in accepting or procuring such advance as aforesaid, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to any of the same punishments: provided, that no such factor or agent shall be liable to any prosecution for consigning, depositing, transferring or delivering any such goods or documents of title, in case the same shall not be made a security for or subject to the payment of any greater sum of money than the amount which at the time of such consignment, deposit, transfer or delivery was justly due [and] owing to such agent from his principal, together with the amount of any bill of exchange drawn by or on account of such principal, and accepted by such factor or agent.

(a) See sect. 79, *infra*.

(b) See the definition of "valuable security," *ante*, sect. 1.

(c) See sect. 75.

Framed on the Factors Act, 5 & 6 Vict. c. 39, s. 6, which section is now repealed. See ss. 85, 86, *post*.

These offences cannot be tried at quarter sessions. See s. 87, *post*.

Clerks wilfully assisting.

Cases excepted where the pledge does not exceed the amount of their lien.

Definitions

79. Any factor or agent intrusted as aforesaid,



and possessed of any such document of title, whether derived immediately from the owner of such goods or obtained by reason of such factor or agent having been intrusted with the possession of the goods, or of any other document of title thereto, shall be deemed to have been intrusted with the possession of the goods represented by such document of title; and every contract pledging or giving a lien upon such document of title as aforesaid shall be deemed to be a pledge of and a lien upon the goods to which the same relates; and such factor or agent shall be deemed to be possessed of such goods or document, whether the same shall be in his actual custody, or shall be held by any other person subject to his control, or for him or on his behalf; and where any loan or advance shall be *bonâ fide* made to any factor or agent intrusted with and in possession of any such goods or document of title, on the faith of any contract or agreement in writing to consign, deposit, transfer or deliver such goods or documents of title, and such goods or document of title shall actually be received by the person making such loan or advance, without notice that such factor or agent was not authorized to make such pledge or security, every such loan or advance shall be deemed to be a loan or advance on the security of such goods or document of title within the meaning of the last preceding section, though such goods or document of title shall not actually be received by the person making such loan or advance till the period subsequent thereto; and any contract or agreement, whether made direct with such factor or agent, or with any clerk or other person on his behalf, shall be deemed a contract or agreement with such factor

of terms :  
"intrusted :"

"pledge :"

"possessed :"

"advance :"

"contract  
or agree-  
ment :"

"advance:" or agent; and any payment made, whether by money or bill of exchange or other negotiable security, shall be deemed to be an advance within the meaning of the last preceding section; and a factor or agent in possession as aforesaid of such goods or document shall be taken, for the purposes of the last preceding section, to have been intrusted therewith by the owner thereof, unless the contrary be shown in evidence.

possession to be evidence of intrusting.

See the 5 & 6 Vict. c. 39, s. 4.

Trustees fraudulently disposing of property, guilty of a misdemeanor.

80. Whosoever, being a trustee (*a*) of any property (*b*) for the [use or] benefit, either wholly or partially, of some other person, or for any public or charitable purpose, shall, with intent to defraud, convert or appropriate the same, or any part thereof to or for his own use (*c*), [or benefit, or the use or benefit of any person, other than such person as aforesaid, or for any purpose other than such public or charitable purpose as aforesaid], or (*d*) otherwise dispose of or destroy such property or any part thereof, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to any of the punishments which the court may award as hereinbefore last mentioned (*e*): provided, that no proceeding or prosecution for any offence included in this section shall be commenced without the sanction of her majesty's attorney-general, or, in case that office be vacant, of her

No prosecution shall be commenced without the sanction of some judge or the attorney-general.

(*a*) "On some express trust created by some deed, will or instrument in writing," see *ante*, sect. 1; where see also the definition of "trustee."

(*b*) See the definition of "property," *ante*, sect. 1.

(*c*) "Or purposes," 20 & 21 Vict. c. 54, s. 1.

(*d*) "Shall with intent aforesaid," 20 & 21 Vict. c. 54, s. 1.

(*e*) See sect. 75.

majesty's solicitor-general : provided also, that where any civil proceeding shall have been taken against any person to whom the provisions of this section may apply, no person who shall have taken such civil proceeding, shall commence any prosecution under this section without the sanction of the court or judge before whom such civil proceeding shall have been had or shall be pending.

Framed on the 20 & 21 Vict. c. 54, ss. 1 & 13. See ss. 85, 86, *post*.

This offence cannot be tried at quarter sessions. See s. 87, *post*.

81. Whosoever, being a director, member, or public officer, of any body corporate or public company, shall fraudulently take or apply for his own use [or benefit, or for any use or purposes other than the use or purposes of such body corporate or public company], any of the property (a) of such body corporate or public company, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to any of the punishments (b) which the court may award as hereinbefore last mentioned.

Directors,  
&c. of any  
body corpo-  
rate or pub-  
lic company  
fraudulently  
appropriating  
property;

(a) See *ante*, sect. 1.

(b) See *ante*, sect. 75.

Framed on the 20 & 21 Vict. c. 54, s. 5. See ss. 85, 86, *post*.

This offence cannot be tried at quarter sessions. See sect. 87, *post*.

82. Whosoever, being a director, public officer, or manager of any body corporate or public company, shall as such receive or possess himself of any of the property (c) of such body corporate or public company, otherwise than in payment of a

or keeping  
fraudulent  
accounts;

(c) See *ante*, sect. 1.

just debt or demand, and shall, with intent to defraud, omit to make, or to cause or direct to be made, a full and true entry thereof in the books and accounts of such body corporate or public company, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to any of the punishments (a) which the court may award as hereinbefore last mentioned.

(a) See *ante*, sect. 75.

This section follows the language of the 20 & 21 Vict. c. 54, s. 6. See ss. 85, 86, *post*.

This offence cannot be tried at quarter sessions. See sect. 87, *post*.

or wilfully  
destroying  
books, &c. ;

83. Whosoever, being a director, manager, public officer, or member of any body corporate or public company, shall, with intent to defraud, destroy, alter, mutilate, or falsify any book, paper, writing, or valuable security (b) belonging to the body corporate or public company, or make or concur in the making of any false entry, [or omit or concur in omitting any material particular (c)], in any book of account or other document, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to any of the punishments which the court may award, as hereinbefore last mentioned.

(b) See *ante*, sect. 1.

(c) "Or any material omission," 20 & 21 Vict. c. 54, s. 7.

This section follows the language of the 20 & 21 Vict. c. 54, s. 7. See ss. 85, 86, *post*.

This offence cannot be tried at quarter sessions. See sect. 87, *post*.

or publishing  
fraudulent  
statements.

84. Whosoever, being a director, manager, or public officer, of any body corporate or public com-

pany, shall make, circulate, or publish, or concur in making, circulating, or publishing, any written statement or account which he shall know to be false in any material particular, with intent to deceive or defraud any member, shareholder, or creditor of such body corporate or public company, or with intent to induce any person to become a shareholder or partner therein, or to intrust or advance any property to such body corporate or public company, or to enter into any security for the benefit thereof, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to any of the punishments which the court may award, as hereinbefore last mentioned.

This section follows the language of the 20 & 21 Vict. c. 54, s. 8. See the next and following section.

This offence cannot be tried at quarter sessions. See sect. 87, *post*.

85. Nothing in any of the last ten preceding sections of this act contained, shall enable or entitle any person to refuse to make a full and complete discovery by answer to any bill in equity, or to answer any question or interrogatory in any civil proceeding in any court, or upon the hearing of any matter in bankruptcy or insolvency; and no person shall be liable to be convicted of any of the misdemeanors in any of the said sections mentioned, by any evidence whatever in respect of any act done by him, if he shall at any time previously to his being charged with such offence have first disclosed such act on oath, in consequence of any compulsory process of any court of law or equity, in any action, suit, or proceeding which shall have been *bonâ fide*

No person to be exempt from answering questions in any court, but no person making a disclosure in any compulsory proceeding to be liable to prosecution.

instituted by any party aggrieved, or if he shall have first disclosed the same in any compulsory examination or deposition before any court upon the hearing of any matter in bankruptcy or insolvency.

Framed on the 20 & 21 Vict. c. 54, s. 11, and the 7 & 8 Geo. 4, c. 29, s. 52 (and the corresponding Irish Act, 9 Geo. 4, c. 55, s. 45). As to what amounts to a disclosure within this provision, see *Reg. v. Skeen*, 28 L. J. (N. S.) M. C. 91.

No remedy at law or in equity shall be affected.

86. Nothing in any of the last eleven preceding sections of this act contained, nor any proceeding, conviction, or judgment, to be had or taken thereon against any person under any of the said sections, shall prevent, lessen, or impeach any remedy at law or in equity which any party aggrieved by any offence against any of the said sections might have had if this act had not been passed; but no conviction of any such offender shall be received in evidence in any action at law or suit in equity against him; and nothing in the said sections contained shall affect or prejudice any agreement entered into or security given by any trustee, having for its object the restoration or repayment of any trust property misappropriated.

Convictions shall not be received in evidence in civil suits.

This section follows the language of the 20 & 21 Vict. c. 54, s. 12. See also the 7 & 8 Geo. 4, c. 29, s. 52, and corresponding Irish Act, 9 Geo. 4, c. 55, s. 45.

Certain misdemeanors not triable at sessions.

87. No misdemeanor against any of the last twelve preceding sections of this act shall be prosecuted or tried at any court of general or quarter sessions of the peace.

The same provision was contained in the 20 & 21 Vict. c. 54, s. 16.

As to obtaining money, &c. by false pretences :

88. Whosoever shall by any false pretence (a) ob-

False pretences.

(a) A false pretence under the statute is a false representation of a definite fact, whether it be of the quantity or quality of goods sold, or of an authority to receive money. Thus a representation that a load of coal sold is of a given weight, (*Reg. v. Sherwood*, 1 Dears. & B. 251; 26 L. J. (N. S.) M. C. 81; *Reg. v. Ragg*, 29 L. J. (N. S.) M. C. 86), or that a sample of cheese formed part of a cheese offered for sale (*Reg. v. Goss*, 29 L. J. (N. S.) M. C. 86), or that an article of base metal is silver, (*Reg. v. Roebuck*, 1 Dears. & B. 24; 25 L. J. (N. S.) M. C. 101), are within the statute; but mere exaggerated praise of an article, although with a fraudulent intention, is not within it, (*Reg. v. Goss*, 29 L. J. (N. S.) M. C., explaining *Reg. v. Bryan*, 26 L. J. (N. S.) M. C. 84; 1 Dears. & B. 265). The passing of a flash note as a genuine one (*Reg. v. Coulson*, 1 Dén. C. C. 592; 19 L. J. (N. S.) M. C. 182); or a note of a bank which has stopped payment, (*Reg. v. Evans*, 29 L. J. (N. S.) M. C. 20); or a note of one value as a note of a higher value, (*Reg. v. Jessop*, 1 Dears. & B. 442; 27 L. J. (N. S.) M. C. 70), is within the statute.

Of a different description, but still within the statute, is the obtaining money as charity by means of untrue statements in a begging letter, (*Reg. v. Jones*, 1 Den. C. C. 551; 19 L. J. (N. S.) M. C. 162); or a false statement by a secretary of a friendly society of the amount due by a member, (*Reg. v. Woolley*, 1 Den. C. C. 559; 19 L. J. (N. S.) M. C. 185); or that a society has a certain sum in a bank and so inducing a payment as entrance money, (*Reg. v. Milman*, 22 L. J. (N. S.) M. C. 118.)

The person parting with the money must, however, believe the false statement to be true, (*Reg. v. Mills*, 1 Dears. & B. 205; 26 L. J. (N. S.) M. C. 29); and the statement must be of an existing fact, and not a mere promise, although it is sufficient if made up of both, as where money is advanced on the faith of a false statement of the possession of goods and a promise to sell them, (*R. v. West*, 27 L. J. N., S. 227; 1 Dears. & B. 575.) The obtaining must also be the direct result of the pretence and not of an intermediate contract. Therefore eatables supplied under an agreement to board and lodge the defendant, entered into in consequence of a false statement, (*Reg. v. Gardner*, 1 Dears. & B. 140; 25 L. J. (N. S.) M. C. 100,) or money paid in consequence of a partnership entered into by false pretences, are not within the statute, (*Reg. v. Watson*, 1 Dears. & B. 348; 27 L. J. (N. S.) M. C. 18). On the other hand, a false representation that the defendant had built a house, and obtaining money on a deposit of the lease of the land, and agreeing to execute a mortgage, is not too remote, (*Reg. v. Burgon*, 1 Dears. & B. 11; 25 L. J. (N. S.) M. C. 105); and a baker

tain from any other person any chattel (*a*), money, or valuable security (*b*), with intent to defraud, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for the term of three years, or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement (*c*): provided, that if upon the trial of any person indicted for such misdemeanor, it shall be proved that he obtained the property in question in any such manner as to amount in law to larceny, he shall not by reason thereof be entitled to be acquitted of such misdemeanor; and no person tried for such misdemeanor shall be liable to be afterwards prosecuted for larceny upon the same facts: provided also, that it shall be sufficient in any indictment for obtaining or attempting to obtain any such property by false pretences, to allege that the

No acquittal because the offence amounts to larceny.

Form of indictment and evidence.

who under contract for supplying paupers with bread on their producing tickets, fraudulently gave them short weight, and produced the tickets to the relieving officer, who credited him with them, was held indictable for attempting, (the fraud being discovered before paying the amount of the contract,) to obtain money by false pretences, (*Reg. v. Eagleton*, *Dears. C. C. 515*; *24 L. J. (N. S.) M. C. 158*).

By the 8 & 9 Vict. c. 109, s. 17, money won by cheating at play is deemed to have been obtained by a false pretence.

As to the form of indictment, see *Hamilton v. The Queen*, *9 Q. B. Rep. 271*; *16 L. J. (N. S.) M. C. 9*.

As to indictable cheats, see *Reg. v. Closs*, *27 L. J. (N. S.) M. C. 54*; *Reg. v. Oates*, *29 Id. 123*.

(*a*) That is to say, some chattel which is the subject of larceny, and therefore a person cannot be convicted of obtaining a dog by false pretences. *Reg. v. Robinson*, *28 L. J. (N. S.) M. C. 58*; but a railway ticket is a chattel within this provision. *Reg. v. Boulton*, *19 L. J. (N. S.) M. C. 67*, and *Reg. v. Morrison*, *28 L. J. (N. S.) M. C. 210*.

(*b*) See *ante*, sect. 1, for the definition of "valuable security," and sect. 89, *post*, and *note*, for what is an obtaining within the meaning of this section.

(*c*) See *post*, ss. 118, 119.



party accused did the act with intent to defraud, without alleging an intent to defraud any particular person, [and without alleging any ownership of the chattel, money, or valuable security ;] and on the trial of any such indictment it shall not be necessary to prove an intent to defraud any particular person, but it shall be sufficient to prove that the party accused did the act charged with an intent to defraud.

Framed so far as regards the offence on the 7 & 8 Geo. 4, c. 29, s. 53, and the Irish Acts, 9 Geo. 4, c. 55, s. 46, and 5 & 6 Will. 4, c. 34, s. 1, passed in consequence of a failure of justice frequently arising from the subtle distinction between larceny and fraud. Where the owner, or some one authorized on his behalf, parts with the entire property in goods or money in consequence of a false representation, the person obtaining them cannot, in law, be treated as having stolen them. On the other hand, where the owner only intended to part with the temporary possession of the goods, or where they were given up by a person not authorized to part with the property in them, the obtaining of them by a false representation, may amount to a stealing: see recent illustrations of the distinction, *Reg. v. Barnes*, 2 Den. C. C. 59; 20 L. J. (N. S.) M. C. 34, and *Reg. v. Kay*, 1 Dears. & B. 231; 26 L. J. (N. S.) M. C. 119. The provision as to the form of the indictment follows the 14 & 15 Vict. c. 100, s. 8, except with respect to the ownership of the thing obtained. Formerly there was often considerable difficulty in ascertaining and determining the particular person intended to be defrauded, as for instance, whether a person, pretending he was authorized by A. to obtain goods from B., intended to defraud A. or B.? This difficulty was met by the 14 & 15 Vict. c. 100, s. 8: (see the note to s. 44, 24 & 25 Vict. c. 98, *post.*) Still it was necessary to state the owner of the property, and the omission was fatal. (*Sill v. The Queen*, 1 E. & B. 553.) This, however, it will be seen is no longer necessary.

In cases of embezzlement and obtaining money or bank notes (which may be described as money) by false pretences, the charge will be supported by proof, "that the offender embezzled or obtained any piece of coin, or any bank note, or any portion of the value thereof, although such piece of coin or bank note may have been delivered to him, in order that some part of the value thereof should be returned to the party delivering the same, or to any other person, and such part shall have been returned accordingly." 14 & 15 Vict. c. 100, s. 18 (unrepealed).

This offence is triable at quarter sessions.

No bill for false pretences can be presented to a grand jury unless the prosecutor has been bound by recognizance to prosecute, or unless the accused has been committed or bound by recognizance to appear, unless the indictment be preferred by the direction or consent in writing of a judge or of the attorney or solicitor-general for England or Ireland, as the case may be: 22 & 23 Vict. c. 17.

Where any money or thing is caused to be paid or delivered to any person other than the person making a false pretence.

89. [Whosoever shall by any false pretence cause or procure any money to be paid, or any chattel, or valuable security (a), to be delivered to any other person, for the use or benefit or on account of the person making such false pretence, or of any other person, with intent to defraud, shall be deemed to have obtained such money, chattel, or valuable security, within the meaning of the last preceding section.]

(a) See *ante*, sect. 1.

This is a new provision, but it does not appear to have any extensive operation, for it has been held that the causing money to be paid into the hands of a third person, is an obtaining of it by a false pretence. See *Reg. v. Butcher*, 28 L. J. (N. S.) M. C. 15. It may have been so inserted with a view to meet the case of *Reg. v. Garrett*, 23 L. J. (N. S.) M. C. 20, but if so, it seems questionable whether the object has been attained.

Inducing persons by fraud to execute deeds and other instruments.

90. Whosoever, with intent to defraud or injure any other person, shall by any false pretence fraudulently cause or induce any other person to execute, make, accept, endorse, or destroy the whole or any part of any valuable security (a), or to write, impress, or affix his name, or the name of any other person, or of any company, firm, or co-partnership, or the seal of any body corporate, company, or society, upon any paper or parchment, in order that the same may be afterwards made or converted into or used or dealt with as a valuable security,

(a) See *ante*, sect. 1.

shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for the term of three years, or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

This section considerably extends the repealed statute, 21 & 22 Vict. c. 47, the language of which was, that "if any person shall by any false pretence obtain the signature of any other person to any bill of exchange, promissory note or any valuable security, with intent to cheat or defraud, every such offender shall be guilty of a misdemeanor." As to the offences met by this provision, see *Reg. v. Danger*, 1 Dears. & B. 327; 26 L. J. (N. S.) M. C. 185. As to imprisonment and solitary confinement, see *post*, ss. 118, 119.

This offence is triable at quarter sessions.

As to receiving stolen goods :

91. Whosoever shall receive (*a*) any chattel, money, valuable security, or other property (*b*) whatsoever, the stealing, taking, [extorting, obtaining, embezzling, or otherwise disposing whereof] shall amount to a felony, either at common law or by virtue of this act, knowing the same to have been feloniously stolen, taken, [extorted, obtained, embezzled, or disposed of,] shall be guilty of felony, and may be indicted and convicted either as an accessory after the fact, or for a substantive felony, and, in the latter case, whether the principal felon shall, or shall not have been previously convicted, or shall or shall not be amenable to justice; and every such receiver, howsoever convicted, shall be liable,

Receiving,  
where the  
principal is  
guilty of  
felony.

(*a*) Actual manual receipt is not necessary; the actual possession by another under the control of the receiver is sufficient. *Reg. v. Wiley*, 2 Den. C. C. 37; 20 L. J. (N. S.) M. C. 4; *Reg. v. Smith*, Dears. C. C. 494; 24 L. J. (N. S.) M. C. 135.

(*b*) See the definitions of "valuable security" and "property," *ante*, sect. 1.

at the discretion of the court, to be kept in penal servitude for any term not exceeding fourteen years, and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping (a): provided, that no person, howsoever tried for receiving as aforesaid, shall be liable to be prosecuted a second time for the same offence.

(a) See *post*, ss. 118, 119.

Framed on the 7 & 8 Geo. 4, c. 29, s. 54, and the corresponding Irish Act, 9 Geo. 4, c. 55, s. 47.

Independently of the words now introduced, a receiver of property embezzled might be convicted of receiving them, knowing them to have been stolen. *Reg. v. Frampton*, 27 L. J. (N. S.) M. C. 229.

This offence is triable at quarter sessions.

Indictment  
for stealing  
and receiving.

92. In any indictment [containing a charge of] feloniously stealing any property (b) it shall be lawful to add a count [or several counts] for feloniously receiving the same [or any part or parts thereof,] knowing the same to have been stolen, and in any indictment for feloniously receiving any property knowing it to have been stolen it shall be lawful to add a count for feloniously stealing the same; and where any such indictment shall have been preferred and found against any person, the prosecutor shall not be put to his election, but it shall be lawful for the jury who shall try the same to find a verdict of guilty, either of stealing the property, or of receiving the same, [or any part or parts thereof,] knowing the same to have been stolen; and if such indictment shall have been preferred and found against two or more persons it

(b) See *ante*, sect. 1.

shall be lawful for the jury who shall try the same to find all or any of the said persons guilty either of stealing the property or of receiving the same, [or any part or parts thereof,] knowing the same to have been stolen, or to find one or more of the said persons guilty of stealing the property, and the other or others of them guilty of receiving the same, [or any part or parts thereof,] knowing the same to have been stolen.

This section, with the exceptions indicated, follows the 11 & 12 Vict. c. 46, s. 3.

Under certain circumstances, the same person may be found guilty both of stealing and receiving without inconsistency, for the same person may well be an accessory before the fact, and therefore indicted for the larceny, (see *ante*, p. 1,) and also a receiver, see *Reg. v. Hughes*, 29 L. J. (N. S.) M. C. 71; but a principal in the second degree cannot as such be convicted of receiving, *Reg. v. Perkins*, 21 L. J., M. C. 152. A wife receiving from her husband goods stolen by him, cannot be convicted, *Reg. v. Brooks*, 22 L. J. (N. S.) M. C. 121; 1 Den. 184; but a husband and wife may be convicted of separately receiving different articles at different times, see *Reg. v. Wardroper*, 29 L. J. (N. S.) M. C. 117.

93. Whenever any property (a) whatsoever shall have been stolen, [taken, extorted, obtained, embezzled, or otherwise disposed of in such a manner as to amount to a felony, either at common law or by virtue of this act,] any number of receivers at different times of such property, [or of any part or parts thereof,] may be charged with substantive felonies in the same indictment, [and may be tried together,] notwithstanding that the principal felon shall not be included in the same indictment, or shall not be in custody or amenable to justice.

Separate receivers may be included in the same indictment in the absence of the principal.

(a) See *ante*, sect. 1.

Framed on the 14 & 15 Vict. c. 100, s. 15, which included accessories, the section reciting that "it frequently happens that the principal in a felony is not in custody or amenable to justice, although several accessories to such felony, or re-

ceivers at different times of stolen property, the subject of such felony, may be in custody or amenable to justice," and then "for the prevention of several trials" enacted "that any number of such accessories or receivers may be charged with substantive felonies in the same indictment, notwithstanding the principal felon shall not be included in the same indictment, or shall or shall not be amenable to justice." As to accessories in general, see the 24 & 25 Vict. c. 94, *ante*.

On an indictment for jointly receiving, persons may be convicted of separately receiving.

94. If upon the trial of any two or more persons indicted for jointly receiving any property (*a*), it shall be proved that one or more of such persons separately received any part [or parts] of such property, it shall be lawful for the jury to convict, upon such indictment, such of the said persons as shall be proved to have received any part [or parts] of such property.

(*a*) See *ante*, sect. 1.

This section follows the 14 & 15 Vict. c. 100, s. 14.

Receiving, where the principal has been guilty of a misdemeanor.

95. Whosoever shall receive any chattel, money, valuable security, or other property (*b*) whatsoever, the stealing, taking, obtaining, converting, or disposing whereof is made a misdemeanor by this act, knowing the same to have been unlawfully stolen, taken, obtained, converted or disposed of, shall be guilty of a misdemeanor, and may be indicted and convicted thereof, whether the person guilty of the principal misdemeanor shall or shall not have been previously convicted thereof, or shall or shall not be amenable to justice; and every such receiver, being convicted thereof, shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be im-

(*b*) See the definitions of "valuable security" and "property," *ante*, sect. 1.

prisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Framed on the 7 & 8 Geo. 4, c. 29, s. 55 (and the corresponding Irish Act, 9 Geo. 4, c. 55, s. 48), and on the 20 & 21 Vict. c. 54, s. 9. As to imprisonment, solitary confinement, and whipping, see *post*, ss. 118, 119.

This offence is triable at quarter sessions.

96. Whosoever shall receive any chattel, money, valuable security, or other property (*a*) whatsoever, knowing the same to have been feloniously or unlawfully stolen, taken, obtained, converted [or disposed of,] may, whether charged as an accessory after the fact to the felony, or with a substantive felony, or with a misdemeanor only, be dealt with, indicted, tried and punished, in any county or place in which he shall have or shall have had any such property in his possession (*b*), or in any county or place in which the party guilty of the principal felony or misdemeanor may by law be tried, in the same manner as such receiver may be dealt with, indicted, tried and punished in the county or place where he actually received such property.

Receiver  
where  
triable.

(*a*) See the definition of "valuable security" and "property," *ante*, sect. 1.

(*b*) In *Reg. v. Ryer*, 26 L. J., M. C. 192, it was held that a receiver, sending a stolen bank note by post into the county of W., had possession of the note in W. within the meaning of this section, the possession of the post-office authorities being his possession; and see note (*a*) to sect. 91, *ante*, p. 93.

This section follows the 7 & 8 Geo. 4, c. 29, s. 56, and the corresponding Irish Act, 9 Geo. 4, c. 55, s. 49; see also sect. 114, *post*.

97. Where the stealing or taking of any pro- Receivers of

property,  
where the  
original  
offence is  
punishable  
on summary  
conviction.

erty (a) whatsoever is by this act punishable on summary conviction, either for every offence, or for the first and second offence only, or for the first offence only, any person who shall receive any such property, knowing the same to be unlawfully come by, shall, on conviction thereof before a justice of the peace, be liable, for every first, second or subsequent offence of receiving, to the same forfeiture and punishment to which a person guilty of a first, second or subsequent offence of stealing or taking such property, is by this act made liable.

(a) See *ante*, sect. 1.

Framed on the 7 & 8 Geo. 4, c. 29, s. 60.

Principals  
in the second  
degree and  
accessories.

98. In case of every felony punishable under this act every principal in the second degree, and every accessory before the fact, shall be punishable in the same manner as the principal in the first degree is by this act punishable; and every accessory after the fact to any felony punishable under this act (except only a receiver of stolen property) shall, on conviction, be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement (b); and every person who shall aid, abet, counsel or procure the commission of any misdemeanor punishable under this act shall be liable to be indicted and punished as a principal offender.

Abettors in  
misdemean-  
ors.

(b) See *post*, ss. 118, 119.

This section follows verbatim (except as regards the accompaniments of imprisonment) the 7 & 8 Geo. 4, c. 29, s. 61, and the corresponding Irish Act, 9 Geo. 4, c. 55, s. 54.

As this is the first time that a "principal in the second degree" is mentioned in the Consolidation Acts, it may be stated that principals, as distinguished from accessories, are



divided into principals in the first degree and principals in the second degree, the former being the actual perpetrators of the crime, the latter those who are present or near either actually assisting, or ready to do so if occasion requires. The punishment being the same, the indictment makes no distinction between these two kinds of principals. With respect to accessories before the fact, this section is merged in the provisions of the 24 & 25 Vict. c. 94, *ante*, p. 1. The last clause of the section, too, does not, it seems, advance the common law: (see note to sect. 8 of the 24 & 25 Vict. c. 94, *ante*, p. 5.

These offences are triable at quarter sessions.

99. Whosoever shall aid, abet, counsel, or procure the commission of any offence which is by this act punishable on summary conviction, either for every time of its commission, or for the first and second time only, or for the first time only, shall, on conviction before a justice of the peace, be liable, for every first, second, or subsequent offence of aiding, abetting, counselling, or procuring, to the same forfeiture and punishment to which a person guilty of a first, second, or subsequent offence as a principal offender is by this act made liable.

Abettors in offences punishable on summary conviction.

Framed on the 7 & 8 Geo. 4, c. 29, s. 62, and see the 11 & 12 Vict. c. 43, s. 5, and the Irish Act, 14 & 15 Vict. c. 93, s. 22.

As to restitution and recovery of stolen property :

100. If any person guilty of any such felony or misdemeanor as is mentioned in this act, in stealing, taking, obtaining, [extorting, embezzling,] converting, [or disposing of,] or in knowingly receiving, any chattel, money, valuable security, or other property (a) whatsoever, shall be indicted for such offence, by or on the behalf of the owner of the property, or his executor or administrator, and

The owner of stolen property prosecuting thief or receiver to conviction shall have restitution of his property.

(a) See the definition of "valuable security" and "property," *ante*, sect. 1.

convicted thereof, in such case the property shall be restored to the owner or his representative (a) : and in every case in this section aforesaid the court before whom any person shall be tried for any such felony or misdemeanor shall have power to award from time to time writs of restitution for the said property, or to order the restitution thereof in a summary manner (b) : provided, that if it shall appear before any award or order made that any valuable security shall have been *bonâ fide* paid or discharged by some person or body corporate liable to the payment thereof, or being a negotiable instrument shall have been *bonâ fide* taken or received by transfer or delivery, by some person or body corporate, for a just and valuable consideration, without any notice or without any reasonable cause to suspect that the same had by any felony or misdemeanor been stolen, taken, obtained, [extorted, embezzled,] converted, [or disposed of,] in such case the court shall not award or order the restitution of such security : [provided also, that nothing in this section contained shall apply to

Provision as to valuable and negotiable securities.

Not to apply to prosecutions of trustees, bankers, &c.

(a) The following clause in the bill, as it passed the Lord in 1860, was struck out by the committee of the House of Commons, after a division upon the point:—"And in every other case where any person shall be tried for any such felony or misdemeanor as in this section aforesaid, and the court shall be satisfied upon the evidence that the chattel, money, valuable security, or other property had been stolen, taken, obtained, extorted, embezzled, converted, disposed of, or knowingly received, the court may, in its discretion, order the property to be restored to the owner or his representative."

A discretionary power to order the restitution of the proceeds of such property, when found in the prisoner's possession, seems desirable, for although in *Harris's case*, Noy, 128 and *R. v. Powell*, 7 C. & P. 640, restitution of the proceeds was ordered, judges have recently refused to extend the language of the statute.

(b) It is imperative on the court to order restitution : as held by *Keating, J.*, after consulting *Hill, J.*, *Reg. v. Gloucester Summer Assizes*, 1861.

the case of any prosecution of any trustee, banker, merchant, attorney, factor, broker, or other agent intrusted with the possession of goods or documents of title to goods for any misdemeanor against this act.]

Framed on the 7 & 8 Geo. 4, c. 29, s. 57 (which superseded the 21 Hen. 8, c. 11), and the Irish Acts, 9 Geo. 4, c. 55, s. 50, as amended by the 5 & 6 Will. 4, c. 34, s. 2. Justices on summary convictions have the same power under the 18 & 19 Vict. c. 126, s. 8.

101. Whosoever shall corruptly take any money or reward, directly or indirectly, under pretence or upon account of helping any person to any chattel, money, valuable security, or other property (*a*) whatsoever which shall by any felony or misdemeanor have been stolen, taken, obtained, [extorted, embezzled,] converted, [or disposed of,] as in this act before mentioned, shall (unless he [shall have used all due diligence to] cause the offender to be brought to trial for the same) (*b*) be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of eighteen years, with or without whipping.

Taking a reward for helping to the recovery of stolen property without bringing the offender to trial.

(*a*) See the definition of “valuable security” and “property,” *ante*, sect. 1.

(*b*) “Unless he cause the offender to be apprehended and brought to trial for the same,” 7 & 8 Geo. 4, c. 29, s. 58.

Framed on the 7 & 8 Geo. 4, c. 29, s. 58, and the corresponding Irish Act, 9 Geo. 4, c. 55, s. 51. For what is a corrupt taking of money within this section, see *Reg. v. Pascoe*, 1 Den. C. C. 456; 18 L. J. (N. S.) M. C. 186. As to imprisonment, solitary confinement, and whipping, see *post*,

ss. 118, 119. The age of eighteen has been apparently inadvertently retained in this section. See the note to sect. 4, *ante*, p. 25.

This offence is triable at quarter sessions.

Advertising  
a reward for  
the return  
of stolen  
property, &c.

102. Whosoever shall publicly advertise a reward for the return of any property (*a*) whatsoever which shall have been stolen or lost, and shall in such advertisement use any words purporting that no questions will be asked, or shall make use of any words in any public advertisement purporting that a reward will be given or paid for any property which shall have been stolen or lost, without seizing or making any inquiry after the person producing such property, or shall promise or offer in any such public advertisement to return to any pawnbroker or other person who may have bought or advanced money by way of loan upon any property stolen or lost the money so paid or advanced, or any other sum of money or reward for the return of such property, or shall print or publish any such advertisement, shall forfeit the sum of fifty pounds for every such offence to any person who will sue for the same by action of debt, to be recovered with full costs of suit.

(*a*) See *ante*, sect. 1.

Identical with the 7 & 8 Geo. 4, c. 29, s. 59, and the corresponding provision in the Irish Act, 9 Geo. 4, c. 55, s. 52. See also a similar provision respecting dogs in the now repealed statute 8 & 9 Vict. c. 47, s. 4.

As to apprehension of offenders, and other proceedings :

A person in  
the act of  
committing

103. Any person found committing any offence punishable, either upon indictment or upon sum-

any conviction, by virtue of this act, except only the offence of angling in the daytime (*a*), may be immediately apprehended without a warrant by any person, and forthwith taken, together with such property (*b*), if any, before some neighbouring justice of the peace, to be dealt with according to law; and if any credible witness shall prove upon oath before a justice of the peace a reasonable cause to suspect that any person has in his possession or on his premises any property whatsoever on or with respect to which any offence, punishable either upon indictment or upon summary conviction by virtue of this act, shall have been committed, the justice may grant a warrant to search for such property as in the case of stolen goods; and any person to whom any property shall be offered to be sold, pawned, or delivered, if he shall have reasonable cause to suspect that any such offence has been committed on or with respect to such property, is hereby authorized, and, if in his power, is required to apprehend and forthwith to take before a justice of the peace the party offering the same, together with such property, to be dealt with according to law.

any offence may be apprehended without a warrant.

A justice, upon good grounds of suspicion proved on oath, may grant a search warrant.

Any person to whom stolen property is offered may seize the party offering it.

(*a*) The following clause was inserted here in the bill, and passed the Lords in 1860, but was struck out by the committee of the House of Commons:—"or found in possession of any property on or with respect to which there is reasonable cause to believe that any felony or indictable misdemeanor punishable under this act has been committed, and that such person either committed such felony or misdemeanor, or unlawfully received such property knowing such felony or misdemeanor to have been committed."

(*b*) See *ante*, sect. 1.

Framed on the 7 & 8 Geo. 4, c. 29, s. 63. See also the repealed provisions of the 8 & 9 Vict. c. 47, s. 5, and the Irish Act, 14 & 15 Vict. c. 92, ss. 4 & 5.

104. Any constable or peace officer may take A person

loitering at night and suspected of any felony against this act may be apprehended.

into custody, without warrant, any person whom he shall find lying or loitering in any highway, yard, or other place, during the night (a), and whom he shall have good cause to suspect of having committed, or being about to commit, any felony against this act, and shall take such person, as soon as reasonably may be, before a justice of the peace, to be dealt with according to law.

(a) For the definition of "night," see *ante*, s. 1.

Taken from the 9 & 10 Vict. c. 25, s. 13. The 14 & 15 Vict. c. 19, s. 11 (unrepealed), reciting that "doubts have been entertained as to the authority to apprehend persons found committing indictable offences in the night," enacts "that it shall be lawful for any person whatsoever to apprehend any person who shall be found committing any indictable offence in the night, and to convey him or deliver him to some constable or other peace officer, in order to his being conveyed, as soon as conveniently may be, before a justice of the peace, to be dealt with according to law." Sect. 13 provides that the time at which night shall commence and conclude, shall be the same as in cases of burglary. The 1 Vict. c. 86, s. 4, made night for the purposes of burglary to commence at 9 p.m. and end at 6 a.m.; but that statute being now repealed, the effect of the above sect. 11, in respect of "night," is doubtful. See the note to sect. 52 of the present act, *ante*, p. 59.

Mode of compelling the appearance of persons punishable on summary conviction.

105. Where any person shall be charged on the oath of a credible witness before any justice of the peace with any offence punishable on summary conviction under this act, the justice may summon the person charged to appear at a time and place to be named in such summons, and if he shall not appear accordingly, then (upon proof of the due service of the summons upon such person, by delivering the same to him personally, or by leaving the same at his usual place of abode,) the justice may either proceed to hear and determine the case *ex parte*, or issue his warrant for apprehending such person, and bringing him before himself or some other justice of the peace; or the justice

before whom the charge shall be made may (if he shall so think fit), without any previous summons (unless where otherwise specially directed), issue such warrant, and the justice before whom the person charged shall appear or be brought shall proceed to hear and determine the case.

Framed on the 7 & 8 Geo. 4, c. 29, s. 65. See also the 11 & 12 Vict. c. 43 ("Jervis' Act") and the Irish Act, 14 & 15 Vict. c. 93 (both unrepealed), and *post*, s. 120.

106. Every sum of money which shall be forfeited on any summary conviction for the value of any property stolen or taken, or for the amount of any injury done (such value or amount to be assessed in each case by the convicting justice), shall be paid to the party aggrieved, except where he is unknown, and in that case such sum shall be applied in the same manner as a penalty; and every sum which shall be imposed as a penalty by any justice of the peace, whether in addition to such value or amount or otherwise, shall be paid and applied in the same manner as other penalties recoverable before justices of the peace are to be paid and applied in cases where the statute imposing the same contains no direction for the payment thereof to any person (a): provided, that where several persons shall join in the commission of the same offence, and shall, upon conviction thereof, each be adjudged to forfeit a sum equivalent to the value of the property or to the amount of the injury, in every such case no further sum shall be paid to the party aggrieved than such value or amount; and the remaining sum or sums forfeited shall be applied in the same manner as any penalty imposed by a

Application of forfeitures and penalties on summary convictions.

Proviso where several persons join in commission of same offence.

(a) See the 11 & 12 Vict. c. 43, s. 31.

justice of the peace is hereinbefore directed to be applied.

Framed on the 7 & 8 Geo. 4, c. 29, s. 66. See also the 18 & 19 Vict. c. 126, s. 22, and the Irish Act, 14 & 15 Vict. c. 93, s. 22 (both unrepealed).

If a person summarily convicted shall not pay, &c., the justice may commit him. Scale of imprisonment.

107. In every case of a summary conviction under this act, where the sum which shall be forfeited for the value of the property stolen or taken, or for the amount of the injury done, or which shall be imposed as a penalty by the justice, shall not be paid, either immediately after the conviction, or within such period as the justice shall at the time of the conviction appoint, the convicting justice (unless where otherwise specially directed) may commit the offender to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, according to the discretion of the justice, for any term not exceeding two months, where the amount of the sum forfeited or of the penalty imposed, or of both, (as the case may be,) together with the costs, shall not exceed five pounds, and for any term not exceeding four months where the amount, with costs, shall not exceed ten pounds, and for any term not exceeding six months in any other case, the commitment to be determinable in each of the cases aforesaid upon payment of the amount and costs.

Framed on the 7 & 8 Geo. 4, c. 29, s. 67. See also the 8 & 9 Vict. c. 47, s. 8, and the Irish Act, 14 & 15 Vict. c. 93, s. 22.

Justice may discharge the offender in certain cases.

108. Where any person shall be summarily convicted before a justice of the peace of any offence against this act, and it shall be a first conviction,



the justice may, if he shall so think fit, discharge the offender from his conviction, upon his making such satisfaction to the party aggrieved for damages and costs, or either of them, as shall be ascertained by the justice.

Framed on the 7 & 8 Geo. 4, c. 29, s. 68, and the Irish Act, 14 & 15 Vict. c. 92, s. 21.

**109.** In case any person convicted of any offence punishable upon summary conviction by virtue of this act shall have paid the sum adjudged to be paid, together with costs, under such conviction, or shall have received a remission thereof from the crown, or from the lord lieutenant or other chief governor in Ireland, or shall have suffered the imprisonment awarded for non-payment thereof, or the imprisonment adjudged in the first instance, or shall have been so discharged from his conviction by any justice as aforesaid, in every such case he shall be released from all further or other proceedings for the same cause.

A summary conviction shall be a bar to any other proceeding for the same cause.

Framed on the 7 & 8 Geo. 4, c. 29, s. 70.

**110.** In all cases where the sum adjudged to be paid on any summary conviction shall exceed five pounds (*a*), or the imprisonment adjudged shall exceed one month, or the conviction shall take place before one justice only, any person who shall think himself aggrieved by any such conviction may appeal to the next court of general or quarter sessions which shall be holden not less than twelve days

Appeal.

(*a*) That is to say, the penalty and value of the thing in question where the value is included in the sum adjudged to be paid.

after the day of such conviction for the county or place wherein the cause of complaint shall have arisen ; provided, that such person shall give to the complainant a notice in writing of such appeal, and of the cause and matter thereof, within three days after such conviction, and seven clear days at the least before such sessions, and shall also either remain in custody until the sessions, or shall enter into a recognizance, with two sufficient sureties, before a justice of the peace, conditioned personally to appear at the said sessions and to try such appeal, and to abide the judgment of the court thereupon, and to pay such costs as shall be by the court awarded ; [or if such appeal shall be against any conviction, whereby only a penalty or other sum of money shall be adjudged to be paid, shall deposit with the clerk of the convicting justice such a sum of money as such justice shall deem to be sufficient to cover the sum so adjudged to be paid, together with the costs of the conviction and the costs of the appeal] ; and upon such notice being given, and such recognizance being entered into, [or such deposit being made,] the justice before whom such recognizance shall be entered into, [or such deposit shall be made,] shall liberate such person if in custody ; and the court at such sessions shall hear and determine the matter of the appeal, and shall make such order therein, with or without costs to either party, as to the court shall seem meet, and in case of the dismissal of the appeal or the affirmance of the conviction shall order and adjudge the offender to be punished according to the conviction, and to pay such costs as shall be awarded, and shall, if necessary, issue process for enforcing such judgment ; [and in any case where

after any such deposit shall have been made as aforesaid the conviction shall be affirmed, the court may order the sum thereby adjudged to be paid, together with the costs of the conviction and the costs of the appeal, to be paid out of the money deposited, and the residue thereof, if any, to be repaid to the party convicted; and in any case where after any such deposit the conviction shall be quashed, the court shall order the money deposited to be repaid to the party convicted; and in every case where any conviction shall be quashed on appeal as aforesaid the clerk of the peace, or other proper officer, shall forthwith indorse on the conviction a memorandum that the same has been so quashed; and whenever any copy or certificate of such conviction shall be made, a copy of such memorandum shall be added thereto, and shall be sufficient evidence that the conviction has been quashed in every case where such copy or certificate would be sufficient evidence of such conviction.]

Framed on the 7 & 8 Geo. 4, c. 29, s. 27, and on the Irish Act, 14 & 15 Vict. c. 92, s. 23.

111. No such conviction, or adjudication made on appeal therefrom, shall be quashed for want of form, or be removed by certiorari into any of her majesty's superior courts of record; and no warrant of commitment shall be held void by reason of any defect therein, provided it be therein alleged that the party has been convicted, and there be a good and valid conviction to sustain the same.

No certiorari, &c.

Framed on the 7 & 8 Geo. 4, c. 29, s 73. See also the Irish Act, 14 & 15 Vict. c. 92, s. 2+ (unrepealed).

Convictions to be re-returned to the quarter sessions.

112. Every justice of the peace before whom any person shall be convicted of any offence against this act shall transmit the conviction to the next court of general or quarter sessions which shall be holden for the county or place wherein the offence shall have been committed, there to be kept by the proper officer among the records of the court; and upon any information against any person for a subsequent offence, a copy of such conviction, certified by the proper officer of the court (a), or proved to be a true copy, shall be sufficient evidence to prove a conviction for the former offence, and the conviction shall be presumed to have been unappealed against until the contrary be shown.

(a) Proof of the signature of the officer is unnecessary. See the 8 & 9 Vict. c. 113, s. 1.

Framed on the 7 & 8 Geo. 4, c. 29, s. 74. The identity of the offender must of course be shown. The certified copy of the conviction, it will be observed, is made evidence upon any *information* for a subsequent offence, departing from the language of the repealed statute 7 & 8 Geo. 4, c. 29, s. 74, which made the certified copy evidence upon any *indictment* or *information*. The omission of the word "indictment" is probably intentional, (although it is retained in the re-enactment of the analogous provision in the repealed Malicious Injuries Act, 7 & 8 Geo. 4, c. 30, s. 40, see the 24 & 25 Vict. c. 97, s. 70, *post*.) for the proof of a certificate upon an indictment is expressly provided for by sect. 116, *post*, and even if it did not, it seems that sect. 14 of the 14 & 15 Vict. c. 99, which makes public documents proveable by certified copies, would apply.

Venue, in proceedings against persons acting under this act.

113. All actions and prosecutions to be commenced against any person for anything done in pursuance of this act shall be laid and tried in the county where the fact was committed, and shall be commenced within six months after the fact committed, and not otherwise; and notice in writing of such action and of the cause thereof shall be

Notice of action.

given to the defendant one month at least before the commencement of the action; and in any such action the defendant may plead the general issue, and give this act and the special matter in evidence, at any trial to be had thereupon; and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into court after such action brought, by or on behalf of the defendant; and if a verdict shall pass for the defendant, or the plaintiff shall become nonsuit, or discontinue any such action after issue joined, or if, upon demurrer or otherwise, judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for the same as any defendant has by law in other cases; and though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant unless the judge before whom the trial shall be shall certify his approbation of the action.

General  
issue, &c.

Framed on the 7 & 8 Geo. 4, c. 29, s. 75, and the corresponding Irish Act, 9 Geo. 4, c. 55, s. 37.

As to other matters :

114. If any person shall have in his possession (a) in any one part of the united kingdom any chattel, money, valuable security, or other property (b) whatsoever, which he shall have stolen or otherwise feloniously taken in any other part of the united kingdom, he may be dealt with, indicted,

Stealers of  
property in  
one part of  
the united  
kingdom  
who have  
the same in  
any other  
part of the  
united  
kingdom

(a) See as to possession, *ante*, p. 96, note (a) to s. 96.

(b) See the definition of "valuable security" and "property," *ante*, sect. 1.

may be tried and punished in that part of the united kingdom where they have the property.

tried, and punished for larceny or theft in that part of the united kingdom where he shall so have such property, in the same manner as if he had actually stolen or taken it in that part; and if any person in any one part of the united kingdom shall receive or have any chattel, money, valuable security, or other property whatsoever which shall have been stolen or otherwise feloniously taken in any other part of the united kingdom, such person knowing such property to have been stolen or otherwise feloniously taken, he may be dealt with, indicted, tried, and punished for such offence in that part of the united kingdom where he shall so receive or have such property, in the same manner as if it had been originally stolen or taken in that part.

Framed on the 7 & 8 Geo. 4, c. 29, s. 76, and on the corresponding Irish Act, 9 Geo. 4, c. 55, s. 75. See also *ante*, sect. 96.

Offences committed within the jurisdiction of the Admiralty.

115. All indictable offences mentioned in this act which shall be committed within the jurisdiction of the admiralty of England or Ireland shall be deemed to be offences of the same nature, and liable to the same punishments, as if they had been committed upon the land in England or Ireland, and may be dealt with, inquired of, tried, and determined in any county or place in which the offender shall be apprehended or be in custody; and in any indictment for any such offence or for being an accessory to any such offence the venue in the margin shall be the same as if the offence had been committed in such county or place, and the offence itself shall be averred to have been committed "on the high seas;" provided, that nothing herein con-

tained shall alter or affect any of the laws relating to the government of her majesty's land or naval forces.

Framed on the 7 & 8 Geo. 4, c. 29, s. 77, and on the Irish Act, 9 Geo. 4, c. 55, s. 74. See also the 7 & 8 Vict. c. 2 (un-repealed). So far as respects accessories, this provision is merged in the 24 & 25 Vict. c. 94, ss. 7, 9, *vide ante*, pp. 4, 5.

116. In any indictment for any offence punishable under this act, and committed after a previous conviction or convictions for any felony, misdemeanor, or offence or offences punishable upon summary conviction, it shall be sufficient, [after charging the subsequent offence (a),] to state that the offender was at a certain time and place or at certain times and places convicted of felony, or of an indictable misdemeanor, or of an offence or offences punishable upon summary conviction, (as the case may be,) without otherwise describing the previous felony, misdemeanor, offence or offences; and a certificate containing the substance and effect only (omitting the formal part) of the indictment and conviction for the previous felony or misdemeanor, or a copy of any such summary conviction, purporting to be signed by the clerk of the court or other officer having the custody of the records of the court where the offender was first convicted, or to which such summary conviction shall have been returned, or by the deputy of such clerk or officer, (for which certificate or copy a fee of five shillings and no more shall be demanded or taken,) shall, upon proof of the identity of the person of the offender, be sufficient evidence of such conviction.

Form of indictment for a subsequent offence.

(a) It seems to be immaterial whether the prior conviction be alleged before or after the substantive charge: see *Reg. v. Hilton*, 28 L. J. (N. S.) M. C. 28.

When the previous conviction is to be proved on the trial.

tion, without proof of the signature or official character of the person appearing to have signed the same ; [and the proceedings upon any indictment for committing any offence after a previous conviction or convictions shall be as follows ; (that is to say,) the offender shall, in the first instance, be arraigned upon so much only of the indictment as charges the subsequent offence, and if he plead not guilty, or if the court order a plea of not guilty to be entered on his behalf, the jury shall be charged, in the first instance, to inquire concerning such subsequent offence only ; and if they find him guilty, or if on arraignment he plead guilty, he shall then, and not before, be asked whether he had been previously convicted as alleged in the indictment, and if he answer that he had been so previously convicted the court may proceed to sentence him accordingly, but if he deny that he had been so previously convicted, or stand mute of malice, or will not answer directly to such question, the jury shall then be charged to inquire concerning such previous conviction or convictions, and in such case it shall not be necessary to swear the jury again, but the oath already taken by them shall for all purposes be deemed to extend to such last-mentioned inquiry :] provided, that, if upon the trial of any person for any such subsequent offence such person shall give evidence of his good character (a), it shall be lawful for the prosecutor, in answer thereto, to give evidence of the conviction of such person for the previous offence or offences before such verdict of guilty shall be returned, and the jury shall inquire concerning such

(a) That is to say, either by calling witnesses or cross-examining the witnesses for the prosecution. *Reg. v. Shrimpton*, 2 Den. C. C. 319 ; 21 L. J., M. C. 37.



previous conviction or convictions at the same time that they inquire concerning such subsequent offence.

The first part of this section, relating to the form of indictment and evidence of a previous conviction, is framed on the 7 & 8 Geo. 4, c. 28, s. 11 (and on the corresponding Irish Act, 9 Geo. 4, c. 54, s. 21), and on the 12 & 13 Vict. c. 11, s. 4, and the 14 & 15 Vict. c. 19, s. 2. The subsequent part of the section, relating to the proceedings on the trial, is framed on the 14 & 15 Vict. c. 19, s. 9, but considerably amended. The 7 & 8 Geo. 4, c. 28, s. 11, provided "a more exemplary punishment for offenders who commit felonies after a previous conviction for felony." To prevent the jury being prejudiced by the previous conviction, the 6 & 7 Will. 4, c. 111, enacted that it should "not be lawful on the trial of any person for any subsequent felony to charge the jury to inquire concerning such person's conviction until after they shall have inquired concerning such subsequent felony, and shall have found such person guilty of the same; and whenever in any statement such person's conviction shall be stated, the reading of such statement to the jury as part of the indictment shall be deferred until after such finding as aforesaid," and in like manner the 14 & 15 Vict. c. 19, s. 9, reciting that provision was made in that act, and in the 12 & 13 Vict. c. 11, for the more exemplary punishment of persons who should commit certain offences after one or more previous convictions for the like or other offences, enacted, "that it shall not be lawful on the trial of any person for any subsequent offence, where a plea of not guilty shall have been entered on his behalf, to charge the jury to inquire concerning any previous conviction, until they shall have inquired concerning such subsequent offence, and shall have found such person guilty of the same; and whenever in any indictment any previous conviction shall be stated, the reading of such statement shall be deferred until after such finding as aforesaid." These provisions (which are identical in effect: see *Reg. v. Shuttleworth*, 21 Law J. Rep. (N. S.) M. C. 36; 2 Den. C. C. 351) did not meet the object they had in view, in two respects, first, "the jurors (as observed in Archbold's Pleading and Evidence in Criminal Cases, 14th ed. p. 125), if they are present at the arraignment of the prisoner, may, and probably will, obtain thereby a knowledge of his previous conviction, of which it will be difficult for them to divest their minds when they have to decide on his guilt or innocence as to the subsequent felony charged against him by the indictment;" secondly, these provisions did not apply to those cases where the previous conviction formed part of the offence itself, and proof of it was necessary to give the court jurisdiction, as where an offence is made larceny after one or more previous summary convictions, for there the practice continued to be

to commence with proof of the former convictions: see Archbold's Criminal Pleading, 14th ed. pp. 309, 310, 788, &c. The present act, therefore, although the bill was drawn and passed the Lords in 1860, with a mere re-enactment of the 14 & 15 Vict. c. 19, s. 9, was extended in committee of the House of Commons so as to obviate both defects.

Fine, and sureties for keeping the peace; in what cases.

117. [Whenever any person shall be convicted of any indictable misdemeanor punishable under this act, the court may, if it shall think fit, in addition to or in lieu of any of the punishments by this act authorized, fine the offender, and require him to enter into his own recognizances and to find sureties, both or either, for keeping the peace and being of good behaviour; and in case of any felony punishable under this act the court may, if it shall think fit, require the offender to enter into his own recognizances, and to find sureties, both or either, for keeping the peace, in addition to any punishment by this act authorized: provided that no person shall be imprisoned under this clause for not finding sureties for any period exceeding one year.]

Hard labour.

118. Whenever imprisonment, with or without hard labour, may be awarded for any indictable offence under this act, the court may sentence the offender to be imprisoned, or to be imprisoned and kept to hard labour, in the common gaol or house of correction.

This section follows the 7 & 8 Geo. 4, c. 29, s. 4.

Solitary confinement and whipping.

119. Whenever solitary confinement may be awarded for any indictable offence under this act, the court may direct the offender to be kept in solitary confinement for any portion or portions of his imprisonment, or of his imprisonment with hard labour, not exceeding one month at any one time,

and not exceeding three months in any one year ; [and whenever whipping may be awarded for any indictable offence under this act, the court may sentence the offender to be once privately whipped, and the number of strokes and the instrument with which they shall be inflicted shall be specified by the court in the sentence.]

The first part of the section is framed on the 7 Will. 4 & 1 Vict. c. 90, s. 5.

The provision with respect to whipping is new. Hitherto the mode and extent of the whipping was in the discretion of the sheriff, or of the officer inflicting the punishment.

120. [Every offence hereby made punishable on summary conviction may be prosecuted in England in the manner directed by the act of the session holden in the eleventh and twelfth years of queen Victoria, chapter forty-three, so far as no provision is hereby made for any matter or thing which may be required to be done in the course of such prosecution, and may be prosecuted in Ireland before two or more justices of the peace, or one metropolitan or stipendiary magistrate, in the manner directed by the act of the session holden in the fourteenth and fifteenth years of queen Victoria, chapter ninety-three, or in such other manner as may be directed by any act that may be passed for like purposes ; and all provisions contained in the said acts shall be applicable to such prosecutions in the same manner as if they were incorporated in this act : provided, that nothing in this act contained shall in any manner alter or affect any enactment relating to procedure in the case of any offence punishable on summary conviction within the city of London or the metropolitan police district, or the recovery or application of any penalty or forfeiture for any such offence.]

Summary proceedings in England may be under the 11 & 12 Vict. c. 43, and in Ireland under the 14 & 15 Vict. c. 93;

except in London and the metropolitan police district.

The costs of the prosecution of misdemeanors against this act may be allowed.

**121.** [The court before which any indictable misdemeanor against this act shall be prosecuted or tried may allow the costs of the prosecution in the same manner as in cases of felony ; and every order for the payment of such costs shall be made out, and the sum of money mentioned therein paid and repaid, upon the same terms and in the same manner in all respects as in cases of felony.]

The costs of prosecutions for felonies are provided for by the 7 Geo. 4, c. 64, s. 22 (unrepealed). The same statute also provides (sect. 23) for the costs in certain misdemeanors, and the now repealed Fraudulent Trustee Act, 20 & 21 Vict. c. 54, provided for the costs of prosecutions under it.

Act not to extend to Scotland.

**122.** Nothing in this act contained shall extend to Scotland, except as hereinbefore otherwise expressly provided.

Commencement of act.

**123.** This act shall commence and take effect on the first day of November, one thousand eight hundred and sixty-one.



## 24 & 25 VICT. CAP. 97.

*An Act to consolidate and amend the Statute Law of England and Ireland relating to Malicious Injuries to Property.* [6th August, 1861.]

Whereas it is expedient to consolidate and amend the statute law of England and Ireland relating to malicious injuries to property : be it enacted by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal and commons in this present parliament

assembled, and by the authority of the same, as follows :

*Injuries by Fire to Buildings, and Goods therein.*

1. Whosoever shall unlawfully and maliciously set fire to any church, chapel, [meeting house, or other place of divine worship (a),] shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Setting fire to a church or chapel.

(a) " Church or chapel, or to any chapel for the religious worship of persons dissenting from the United Church of England and Ireland," 7 Will. 4 & 1 Vict. c. 89, s. 3.

Framed on part of the 7 Will. 4 & 1 Vict. c. 89, s. 3. Whipping, in the case of males under eighteen, was permitted by the 9 & 10 Vict. c. 25, s. 9, and for not exceeding three times. Now the age is limited to sixteen and to one whipping, " and the number of strokes and the instrument with which they shall be inflicted, shall be specified by the court in the sentence," (see *post*, s. 75.) As to imprisonment and solitary confinement, see ss. 74, 75.

This offence cannot be tried at quarter sessions.

2. Whosoever shall unlawfully and maliciously set fire to any dwelling-house, any person being therein, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without

Setting fire to a dwelling-house, any person being therein.

solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

This offence was heretofore a capital felony, see the 7 Will. 4 & 1 Vict. c. 89, s. 2. If the act be done with intent to defraud, it is immaterial that the dwelling-house is in the possession of the offender, (see s. 59, *post*.) As to imprisonment, solitary confinement and whipping, see *post*, ss. 74, 75.

This offence cannot be tried at quarter sessions.

Setting fire to a house, outhouse, manufactory, farm building, &c.

3. Whosoever shall unlawfully and maliciously set fire to any house, stable, coach-house, outhouse, warehouse, office, shop, mill, malthouse, hop-oast, barn, storehouse, granary, hovel, shed (*a*) or fold, or to any farm-building, or to any building or erection used in farming land, or in carrying on any trade or manufacture or any branch thereof, whether the same shall then be in the possession of the offender or in the possession of any other person, with intent thereby to injure or defraud any person, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

(*a*) As to what is a "shed," see *Reg. v. Amos*, 2 Den. C. C. 65; 20 L. J. (N. S.) M. C. 103.

Framed on the 7 Will. 4 & 1 Vict. c. 89, s. 3; 7 & 8 Vict. c. 62, s. 1. As to imprisonment, solitary confinement, and whipping, see *post*, ss. 74, 75.

This offence cannot be tried at quarter sessions.

Setting fire to any railway station.

4. Whosoever shall unlawfully and maliciously set fire to any station, engine-house, warehouse or other building, belonging or appertaining to any railway, [port,] dock [or harbour,] or to any canal

or other navigation, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and, if a male under the age of sixteen years, with or without whipping.

Framed on the 14 & 15 Vict. c. 19, s. 8. As to imprisonment and whipping, see *post*, ss. 74, 75.

This offence cannot be tried at quarter sessions.

5. [Whosoever shall unlawfully and maliciously set fire to any building other than such as are in this act before mentioned, belonging to the Queen, or to any county, riding, division, city, borough, poor law union, parish or place, or belonging to any university, or college or hall of any university, or to any inn of court, or devoted or dedicated to public use or ornament, or erected or maintained by public subscription or contribution, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and, if a male under the age of sixteen years, with or without whipping.]

Setting fire to any public building.

This provision is new. As to imprisonment and whipping, see *post*, ss. 74, 75.

This offence cannot be tried at quarter sessions.

6. [Whosoever shall unlawfully and maliciously set fire to any building other than such as are in this act before mentioned shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servi-

Setting fire to other buildings.

tude for any term not exceeding fourteen years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and, if a male under the age of sixteen years, with or without whipping.]

This provision is new. As to imprisonment and whipping, see *post*, ss. 74, 75.

The court of quarter sessions has, apparently, jurisdiction to try cases under this section, although it seems to have been the intention of the legislature to exclude all cases of arson. Under the 5 & 6 Vict. c. 38, justices in quarter sessions and recorders cannot try offences punishable with transportation (for which now read "punishable with penal servitude," 20 & 21 Vict. c. 3, s. 6,) for life, nor the offence of "setting fire to crops of corn, grain, or pulse, or to any part of a wood, coppice, or plantation of trees, or to any heath, gorse, furze, or fern;" the only cases of arson at that time not punishable so severely as by transportation for life. By the present act, however, the offences included in ss. 6, 7, & 8, not being punishable by penal servitude for life, and not being expressly excluded, are triable at quarter sessions and by recorders. Still, as the spirit of the legislation on the subject should be acted upon, justices ought to commit offenders to the assizes.

Setting fire to goods in any building, the setting fire to which is felony.

7. Whosoever shall unlawfully and maliciously set fire to any matter or thing, being in, [against, or under] any building, under such circumstances that if the building were thereby set fire to, the offence amount to felony, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding fourteen and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and, if a male under the age of sixteen years, with or without whipping.

Framed on the 7 & 8 Vict. c. 62, s. 2, and on the 14 & 15 Vict. c. 19, s. 8. As to imprisonment and whipping, see *post*, ss. 74, 75.

As to the jurisdiction at quarter sessions, see the note to the last section.



8. Whosoever shall unlawfully and maliciously Attempting to set fire to buildings. by any overt act attempt to set fire to any building, or any matter or thing in the last preceding section mentioned (a), under such circumstances that if the same were thereby set fire to the offender would be guilty of felony, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding fourteen and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

(a) Sect. 7, as the bill originally stood, specified "hay, straw, wood, or other vegetable produce, coal, turf, or other matter or thing being in, against, or under any building," but this description was struck out in committee of the House of Commons.

Framed on the 9 & 10 Vict. c. 25, s. 7. Although an attempt to commit a felony is a misdemeanor at common law, of which the accused may be convicted on an indictment charging the actual offence, (see the statute 14 & 15 Vict. c. 100, s. 9, *ante*, p. 62,) it is doubtful whether the accused, on an indictment under s. 7, can be convicted of an attempt, or if he can, whether he can be punished under s. 8. The proper course on an indictment under s. 7 will be to add a count under s. 8.

As to imprisonment, solitary confinement and whipping, see *post*, ss. 74, 75. As to quarter sessions, see the note to sect. 10, *post*, p. 125.

### *Injuries by explosive Substances to Buildings and Goods therein.*

9. Whosoever shall unlawfully and maliciously, Destroying or damaging a house with gunpowder, any person being therein. by the explosion of gunpowder or other explosive substance, destroy, throw down, or damage the whole or any part of any dwelling-house, any person being therein, or of any building whereby the life of any person shall be endangered, shall be

guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years with or without whipping.

Framed on the 9 & 10 Vict. c. 25, ss. 1 & 2. If the act be done with intent to defraud, it is immaterial that the dwelling-house or building is in the possession of the offender see s. 59, *post*.

As to imprisonment, solitary confinement and whipping see *post*, ss. 74, 75.

This offence cannot be tried at quarter sessions.

Attempting  
to destroy  
buildings  
with gun-  
powder.

10. Whosoever shall unlawfully and maliciously place or throw in, into, upon, [under,] against or near any building, any gunpowder or other explosive substance, with intent to destroy or damage any building (a), or any [engine], machinery, working tools, fixtures, goods or chattels, shall whether or not any explosion take place, and whether or not any damage be caused, be guilty of felony, and being convicted thereof shall be liable at the discretion of the court, to be kept in penal servitude for any term not exceeding fourteen years or not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years with or without whipping.

(a) "With intent to do any bodily damage to any person or to destroy or damage any building &c.," 9 & 10 Vict. c. 25, s. 6. The former intent is now separately provided for by the act, "to consolidate and amend the statute law of England and Ireland, relating to offences against the person" 24 & 25 Vict. c. 100, s. 30. See that provision, *post*.

Framed on the 9 & 10 Vict. c. 25, s. 6. That section

cluded ships, but a separate section in the present act provides for them, (see *post*, s. 45.) If the act be done with intent to defraud, it is immaterial that the building, &c. is in the possession of the offender, (see *post*, s. 59.)

As to imprisonment, solitary confinement and whipping, see *post*, ss. 74, 75.

Although the now repealed statute 9 & 10 Vict. c. 25, provided, (s. 15,) that no offences under that act should be tried at quarter sessions, there is no such provision now in force, consequently this offence is triable at quarter sessions.

Nevertheless as this is an accidental and not a designed repetition, justices will do right to commit accused persons to the assizes.

### *Injuries to Buildings by Rioters, &c.*

11. If any persons riotously and tumultuously assembled together to the disturbance of the public peace shall unlawfully and with force demolish, or pull down or destroy, or begin to demolish, pull down or destroy any church, chapel, [meeting-house, or other place of divine worship (*a*),] or any house, stable, coach-house, outhouse, warehouse, office, shop, mill, malthouse, hop-oast, barn, granary, [shed, hovel or fold,] or any building or erection used in [farming land, or in] carrying on any trade or manufacture or any branch thereof, or any building other than such as are in this section before mentioned, belonging to the queen, or to any county, riding, division, city, borough, or law union, parish or place, or belonging to any university, or college or hall of any university, or to any inn of court, or devoted or dedicated to public use or ornament, or erected or maintained by public subscription or contribution,] or any machinery, whether fixed or moveable, prepared for or employed in any manufacture or in any branch thereof, or any steam engine or other engine for working, working, [ventilating,] or draining any mine, or any staith, building or erection used in

Rioters demolishing church building, &c.

conducting the business of any mine, or any bridge, waggonway, or trunk for conveying minerals from any mine, every such offender shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

(a) "Any church or chapel, or any chapel for the religious worship of persons dissenting from the united Church of England and Ireland, duly registered or recorded," 7 & 8 Geo. 4, c. 30, s. 8.

Framed on the 7 & 8 Geo. 4, c. 30, s. 8, and see the Irish Acts, 27 Geo. 3, c. 15, s. 5, and 39 & 40 Geo. 3, c. 96, s. 3.

As to imprisonment and solitary confinement, see *post*, ss. 74, 75.

This offence cannot be tried at quarter sessions.

Rioters injuring building, machinery, &c.

12. If any persons, riotously and tumultuously assembled together to the disturbance of the public peace, shall unlawfully and with force injure or damage any such church, chapel, meeting-house, place of divine worship, house, stable, coach-house, out-house, warehouse, office, shop, mill, malthouse, hop-oast, barn, granary, shed, hovel, fold, building, erection, machinery, engine, staith, bridge, waggonway, or trunk, as is in the last preceding section mentioned, every such offender shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour (b): [provided that if upon the trial of any person for any felony in the

(b) As to imprisonment, see *post*, s. 74.

last preceding section mentioned the jury shall not be satisfied that such person is guilty thereof, but shall be satisfied that he is guilty of any offence in this section mentioned, then the jury may find him guilty thereof, and he may be punished accordingly.]

See the 1 & 2 Will. 4, c. 44, s. 2 (Ireland). This provision is new in England.

If this can be treated as an "unlawful combination," the offence cannot be tried at quarter sessions. See 5 & 6 Vict. c. 88.

### *Injuries to Buildings by Tenants.*

13. Whosoever, being possessed of any dwelling house or other building, or part of any dwelling house or other building, held for any term of years or other less term, or at will, or held over after the termination of any tenancy, shall unlawfully and maliciously pull down or demolish, or begin to pull down or demolish, the same or any part thereof, or shall unlawfully and maliciously pull down or sever from the freehold any fixture being fixed in or to such dwelling house or building, or part of such dwelling house or building, shall be guilty of a misdemeanor.

Tenants of houses, &c. maliciously injuring them.

This section extends to England, and amends the act for Ireland, 9 Geo. 4, c. 56, s. 24. Apparently by some inadvertence the punishment is omitted in this instance, and also in sect. 34. As a misdemeanor, it is punishable at common law by fine or imprisonment, or by both, at the discretion of the court.

The offence may be tried at quarter sessions.

### *Injuries to Manufactures, Machinery, &c.*

14. Whosoever shall unlawfully and maliciously cut, break, or destroy, or damage with intent to destroy or to render useless, any goods or article of silk, woollen, linen, cotton, [hair, mohair, or alpaca,]

Destroying goods in process of manufacture, certain machinery, &c.

or of any one or more of those materials mixed with each other or mixed with any other material, or any framework-knitted piece, stocking, hose, or lace, being in the loom or frame, or on any machine or engine, or on the rack or tenters, or in any stage, process, or progress of manufacture, or shall unlawfully and maliciously cut, break, or destroy, or damage with intent to destroy or to render useless, any warp or shute of silk, woollen, linen, cotton, [hair, mohair, or alpaca,] or of any one or more of those materials mixed with each other or mixed with any other material, or shall unlawfully and maliciously cut, break, or destroy, or damage with intent to destroy or render useless, any loom, frame, machine, engine, rack, tackle, [tool,] or implement, whether fixed or moveable, prepared for or employed in carding, spinning, throwing, weaving, fulling, shearing, or otherwise manufacturing or preparing any such goods or articles, or shall by force enter into any house, shop, building, or place, with intent to commit any of the offences in this section mentioned, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Framed on the 7 & 8 Geo. 4, c. 30, s. 3, and the corresponding Irish Act, 9 Geo. 4, c. 56, s. 3.

As to imprisonment, solitary confinement and whipping, see *post*, ss. 74, 75.

This offence cannot be tried at quarter sessions.

Destroying

15. Whosoever shall unlawfully and maliciously

cut, break, or destroy, or damage with intent to destroy or to render useless, any machine or engine, whether fixed or moveable, used or intended to be used for [sowing, reaping, mowing,] thrashing, [ploughing, or draining, or for performing any other agricultural operation,] or any machine or engine, [or any tool or implement,] whether fixed or moveable, prepared for or employed in any manufacture whatsoever (except the manufacture of silk, woollen, linen, cotton, [hair,] mohair, [or alpaca,] goods, or goods of any one or more of those materials mixed with each other or mixed with any other material, or any framework-knitted piece, stocking, hose, or lace), shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

machines in other manufactures, threshing machines, &c.

Framed on the 7 & 8 Geo. 3, c. 30, s. 4, and on the corresponding Irish Act, 9 Geo. 4, c. 56, s. 4.

As to imprisonment, solitary confinement and whipping, see *post*, ss. 74, 75.

If the offence amount to an "unlawful combination," it cannot be tried at quarter sessions. See 5 & 6 Vict. c. 38.

### *Injuries to Corn, Trees, and vegetable Productions.*

16. Whosoever shall unlawfully and maliciously set fire to any crop of [hay, grass,] corn, grain, or pulse [or of any cultivated vegetable produce,] whether standing or cut down, or to any part of any wood, coppice, or plantation of trees, or to any

Setting fire to crops of corn, &c.

heath, gorse, furze, or fern, wheresoever the same may be growing, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding fourteen years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Framed on the 7 & 8 Geo. 4, c. 30, s. 17, and on the corresponding Irish Act, 9 Geo. 4, c. 56, s. 18.

As to imprisonment, solitary confinement and whipping, see *post*, ss. 74, 75.

This offence cannot be tried at quarter sessions. See 5 & 6 Vict. c. 38.

Setting fire to  
stacks of  
corn, &c.

17. Whosoever shall unlawfully and maliciously set fire to any stack of corn, grain (*a*), pulse, tares, hay, straw, haulm, stubble, [or of any cultivated vegetable produce,] or of furze, [gorse,] heath, fern, turf, peat, coals, charcoal, wood, [or bark,] or to any steer of wood [or bark], shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

(*a*) Flax with the seed in it may be grain. *Reg v. Spencer*, 1 Dears. & B. 131; 26 L. J. (N. S.) M. C. 17.

Framed on the 7 Will. 4 & 1 Vict. c. 89, s. 10.

As to imprisonment, solitary confinement and whipping, see *post*, ss. 74, 75.

This offence cannot be tried at quarter sessions.



18. Whosoever shall unlawfully and maliciously by any overt act attempt to set fire to any such matter or thing [as in either of the last two preceding sections mentioned], under such circumstances that if the same were thereby set fire to the offender would be, under either of such sections, guilty of felony, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Attempting to set fire to any crops of corn, &c. or to any stack or steer.

Framed on part of the 9 & 10 Vict. c. 25, s. 7. See the note to sect. 8, *ante*, p. 121, and also the note *ante*, p. 62.

As to imprisonment, solitary confinement and whipping, see *post*, ss. 74, 75.

This offence is apparently triable at quarter sessions. See the note to sect. 10, *ante*, p. 125.

19. Whosoever shall unlawfully and maliciously cut or otherwise destroy any hopbinds growing on poles in any plantation of hops shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding fourteen and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Destroying hopbinds.

Framed on the 7 & 8 Geo. 4, c. 30, s. 18, and extended to Ireland.

As to imprisonment, solitary confinement and whipping, see *post*, ss. 74, 75.

This offence, unless amounting to an unlawful combination, is triable at quarter sessions. See 5 & 6 Vict. c. 38.

Destroying or  
damaging  
trees, shrubs,  
&c. to the  
value of more  
than 1*l.* grow-  
ing in a plea-  
sure ground,  
&c.

20. Whosoever shall unlawfully and maliciously cut, break, bark, root up, or otherwise destroy or damage the whole or any part of any tree, sapling, or shrub, or any underwood, growing in any park, pleasure ground, garden, orchard, or avenue, or in any ground adjoining or belonging to any dwelling house, (in case the amount of the injury done (*a*) shall exceed the sum of one pound (*a*), shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for the term of three years, or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

(*a*) That is to say, the immediate injury done to the tree, shrub or underwood, and not the consequential damage or costs of replanting. See *Reg. v. Whiteman*, Dears. C. C. 1; 23 L. J. (N. S.) M. C. 120.

Framed on part of the 7 & 8 Geo. 4, c. 30, s. 19, and on the corresponding Irish Act, 9 Geo: 4, c. 56, s. 19.

As to imprisonment, solitary confinement and whipping, see *post*, ss. 74, 75.

This offence can be tried at quarter sessions.

Destroying or  
damaging  
trees, shrubs,  
&c. of the  
value to more  
than 5*l.* grow-  
ing elsewhere  
than in a  
pleasure  
ground, &c.

21. Whosoever shall unlawfully and maliciously cut, break, bark, root up, or otherwise destroy or damage the whole or any part of any tree, sapling, or shrub, or any underwood, growing elsewhere than in any park, pleasure ground, garden, orchard, or avenue, or in any ground adjoining to or belonging to any dwelling house, (in case the amount of injury done shall exceed the sum of five pounds (*b*),) shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for the term of three years, or to be imprisoned for any term not exceed-

(*b*) See note (*a*) to sect. 20.

ing two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Framed on the latter part of the 7 & 8 Geo. 4, c. 30, s. 19, and on the corresponding Irish Act, 9 Geo. 4, c. 56, s. 19:

As to imprisonment, solitary confinement and whipping, see *post*, ss. 74, 75.

This offence can be tried at quarter sessions.

22. Whosoever shall unlawfully and maliciously cut, break, bark, root up, or otherwise destroy or damage the whole or any part of any tree, sapling, or shrub, or any underwood, wheresoever the same may be growing, the injury done being to the amount of one shilling at the least (*a*), shall, on conviction thereof before a justice of the peace, [at the discretion of the justice, either be committed to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour for any term not exceeding three months, or else shall] forfeit and pay, over and above the amount of the injury done, such sum of money, not exceeding five pounds, as to the justice shall seem meet (*b*); and whosoever, having been convicted of any such offence, [either against this or any former act of parliament,] shall afterwards commit any of the said offences in this section before mentioned, and shall be convicted thereof in like manner, shall for such second offence be committed to the common gaol or house of correction, there to be kept to hard labour for such term, not exceeding twelve months, as the convicting justice shall think fit; and whosoever, having been twice

Damaging trees, wheresoever growing, to the amount of 1s.

Second offence.

Third offence.

(*a*) See note (*a*) to sect. 20.

(*b*) Or the justice may, on a final conviction, discharge the offender on his making satisfaction to the party aggrieved for damages and costs. See *post*, sect. 66.

convicted of any such offence (whether both or either of such convictions shall have taken place before or after the passing of this act), shall afterwards commit any of the said offences in this section before mentioned, shall be guilty of a [misdemeanor], and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Framed on the 7 & 8 Geo. 4, c. 30, s. 20. By that act, however, the third offence was made a felony, but in committee of the House of Commons on the present bill it was reduced to a misdemeanor.

As to the mode of proceeding at the trial on an indictment for the misdemeanor after the two previous convictions, or for the felony under sect. 23, see the 24 & 25 Vict. c. 97, s. 116, *ante*, p. 114, which, in that respect, applies to any indictment. As to the *proof* of the previous conviction, see *post*, s. 70, and also the notes to s. 112 of the 24 & 25 Vict. c. 96, *ante*, p. 110.

As to imprisonment, solitary confinement and whipping, see *post*, ss. 74, 75.

An appeal lies to the quarter sessions against a summary conviction under this section if the sum adjudged to be paid exceeds 5*l.*, or if the imprisonment exceeds one month, or if the conviction is before one justice only: (see sect. 68, *post* :) or either party may appeal to one of the superior courts if dissatisfied with the determination of the justice as being erroneous in point of law: 20 & 21 Vict. c. 43.

The third offence can be tried at quarter sessions.

As to *wilful or malicious* injuries to any tree, sapling, shrub or underwood, for which no punishment is provided in either of the three preceding sections, see *post*, ss. 52, 53.

Destroying  
any fruit or  
vegetable  
production in  
a garden.

23. Whosoever shall unlawfully and maliciously destroy, or damage with intent to destroy, any plant, root, fruit or vegetable production, growing in any garden, orchard, nursery ground, hothouse, greenhouse or conservatory, shall, on conviction thereof before a justice of the peace, at the discretion of the justice, either be committed to the common gaol or house of correction, there to be

imprisoned only, or to be imprisoned and kept to hard labour, for any term not exceeding six months, or else shall forfeit and pay, over and above the amount of the injury done, such sum of money not exceeding twenty pounds, as to the justice shall seem meet (a); and whosoever, having been convicted of any such offence, [either against this or any former act of parliament,] shall afterwards commit any of the said offences in this section before mentioned, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for the term of three years, or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Second offence.

(a) Or the justice may, on a final conviction, discharge the offender on his making satisfaction to the party aggrieved for damages and costs. See sect. 66, *post*.

Framed on the 7 & 8 Geo. 4, c. 30, s. 21.

As to the mode of proceeding at the trial for the second offence, see the note to the last section.

As to imprisonment, solitary confinement and whipping, see *post*, ss. 74, 75.

An appeal lies to the quarter sessions against a summary conviction under this section if the sum adjudged to be paid exceeds 5*l.*, or if the imprisonment exceeds one month, or if the conviction is before one justice only: (see sect. 68, *post*;) or either party may appeal to one of the superior courts if dissatisfied with the determination of the justice as being erroneous in point of law: 20 & 21 Vict. c. 43.

The second offence is triable at quarter sessions.

24. Whosoever shall unlawfully and maliciously destroy, or damage with intent to destroy, any cultivated root or plant used for the food of man or beast, or for medicine, or for distilling, or for dyeing, or for or in the course of any manufacture, and growing in any land, open or inclosed, not be-

Destroying, &c. vegetable productions not growing in gardens, &c.

Second  
offence.

ing a garden, orchard or nursery ground, shall, on conviction thereof before a justice of the peace, at the discretion of the justice, either be committed to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, for any term not exceeding one month, or else shall forfeit and pay, over and above the amount of the injury done, such sum of money not exceeding twenty shillings as to the justice shall seem meet, and in default of payment thereof, together with the costs, if ordered, shall be committed as aforesaid for any term not exceeding one month, unless payment be sooner made<sup>(a)</sup>; and whosoever, having been convicted of any such offence [either against this or any former act of parliament,] shall afterwards commit any of the said offences in this section before mentioned, and shall be convicted thereof in like manner, shall be committed to the common gaol or house of correction, there to be kept to hard labour for such term not exceeding six months as the convicting justice shall think fit.

(a) Or the justice may, on a first conviction, discharge the offender on his making satisfaction to the party aggrieved for damages and costs. See sect. 66, *post*.

Framed on the 7 & 8 Geo. 4, c. 30, s. 22.

An appeal to the quarter sessions lies against a conviction under this section if the sum adjudged to be paid exceeds 5*l.*, or if the imprisonment exceeds one month, or if the conviction is before one justice only, (see sect. 68, *post*.) or either party may appeal to one of the superior courts if dissatisfied with the determination of the justice as being erroneous in point of law: 20 & 21 Vict. c. 43.

### *Injuries to Fences.*

Destroying,  
&c. any  
fence, wall,  
stile or gate.

25. Whosoever shall unlawfully and maliciously cut, break, throw down or in anywise destroy any fence of any description whatsoever, or any wall,

stile or gate, or any part thereof respectively, shall, on conviction thereof before a justice of the peace, for the first offence forfeit and pay, over and above the amount of the injury done, such sum of money not exceeding five pounds as to the justice shall seem meet (*a*); and whosoever having been convicted of any such offence, [either against this or any former act of parliament,] shall afterwards commit any of the said offences in this section before mentioned, and shall be convicted thereof in like manner, shall be committed to the common gaol or house of correction, there to be kept to hard labour for such term not exceeding twelve months as the convicting justice shall think fit.

Second  
offence.

(*a*) Or the justices may, on a first conviction, discharge the offender on his making satisfaction to the party aggrieved for damages and costs. See sect. 66, *post*.

Framed on the 7 & 8 Geo. 4, c. 30, s. 23.

An appeal lies to the quarter sessions against a conviction under this section if the sum adjudged to be paid exceeds 5*l*, or if the imprisonment exceeds one month, or if the conviction is by one justice only, (see sect. 68, *post*,) or either party may appeal to one of the superior courts if dissatisfied with the determination of the justice as being erroneous in point of law: 20 & 21 Vict. c. 43.

### *Injuries to Mines.*

26. Whosoever shall unlawfully and maliciously set fire to any mine of coal, cannel coal, [anthracite or other mineral fuel,] shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years, —or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Setting fire to  
a coal mine.

Framed on the 7 Will. 4 & 1 Vict. c. 89, s. 9. If the act

be done with intent to defraud, it is immaterial that the mine is in the possession of the offender, see sect. 59, *post*.

As to imprisonment, solitary confinement and whipping, see *post*, ss. 74, 75.

This offence cannot be tried at quarter sessions.

Attempting  
to set fire to  
a mine.

27. Whosoever shall unlawfully and maliciously by any overt act attempt to set fire to any mine, under such circumstances that if the mine were thereby set fire to, the offender would be guilty of felony, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding fourteen and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Framed on the 9 & 10 Vict. c. 25, part of sect. 7 (see the note to sect. 8, *ante*, p. 123). If the overt act be done with intent to defraud, it is immaterial that the mine is in the possession of the offender. See *post*, sect. 59.

As to imprisonment, solitary confinement and whipping, see *post*, ss. 74, 75.

This offence can, it seems, now be tried at quarter sessions. See the note to sect. 10, *ante*, p. 124.

Conveying  
water into  
a mine, ob-  
structing the  
shaft, &c.

28. Whosoever shall unlawfully and maliciously cause any water to be conveyed [or run] into any mine, or into any subterraneous passage communicating therewith, with intent thereby to destroy or damage such mine, or to hinder or delay the working thereof, or shall with the like intent unlawfully and maliciously pull down, fill up or obstruct, [or damage with intent to destroy, obstruct, or render useless,] any airway, waterway, drain, pit, level or shaft of or belonging to any mine, shall be guilty of felony, and being convicted thereof



shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping (a) : provided that this provision shall not extend to any damage committed underground by any owner of any adjoining mine in working the same, or by any person duly employed in such working.

(a) As to imprisonment, solitary confinement and whipping, see *post*, ss. 74, 75.

Framed on the 7 & 8 Geo. 4, c. 30, s. 6, and the corresponding Irish Act, 9 Geo. 4, c. 56, s. 7. If the act be done with intent to defraud, it is immaterial that the mine is in the possession of the offender. See *post*, sect. 59.

This offence can be tried at quarter sessions.

**29.** Whosoever shall unlawfully and maliciously pull down or destroy, or damage with intent to destroy or render useless, any steam engine or other engine for sinking, draining, [ventilating,] or working, or for in anywise assisting in [sinking, draining, ventilating or] working any mine or any appliance or apparatus in connexion with any such steam or other engine, or any staith, building or erection used in conducting the business of any mine or any bridge, waggonway, or trunk for conveying minerals from any mine, whether such engine, staith, building, erection, bridge, waggonway or trunk be completed or in an unfinished state, or shall unlawfully and maliciously stop, obstruct or hinder the working of any such steam or other engine, or of any such appliance or apparatus as aforesaid, with intent thereby to destroy or damage any mine, or to hinder, obstruct or delay the

Damaging steam engines, staiths, waggonways, &c. for working mines.

working thereof, [or shall unlawfully and maliciously wholly or partially cut through, sever, break or unfasten or damage, with intent to destroy or render useless, any rope, chain or tackle of whatsoever material the same shall be made, used in any mine, or in or upon any inclined plane, railway or other way, or other work whatsoever, in anywise belonging or appertaining to or connected with or employed in any mine or the working or business thereof,] shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Framed on the 7 & 8 Geo. 4, c. 30, s. 7, and the corresponding Irish Act, 9 Geo. 4, c. 56, s. 8, and also on the 23 & 24 Vict. c. 29, s. 1.

As to imprisonment, solitary confinement and whipping, see *post*, ss. 74, 75.

This offence can be tried at quarter sessions.

*Injuries to Sea and River Banks, and to Works on Rivers, Canals, &c.*

Destroying  
any sea bank  
or wall on  
any canal.

30. Whosoever shall unlawfully and maliciously break down or cut down [or otherwise damage or destroy] any sea bank or sea wall, or the bank, [dam,] or wall of [or belonging to] any river, canal, [drain, reservoir, pool,] or marsh, whereby any land [or building] shall be [or shall be in danger of being] overflowed or damaged, or shall unlawfully and maliciously throw [break or cut] down, level, [undermine,] or otherwise destroy,

any [quay, wharf, jetty,] lock, sluice, floodgate, [weir, tunnel, towing-path, drain, watercourse,] or other work [belonging to any port, harbour, dock or reservoir, or] on [or belonging to] any navigable river or canal, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Framed on the 7 & 8 Geo. 4, c. 30, part of sect. 12, and the corresponding section of the Irish Act, 9 Geo. 4, c. 56, s. 12.

As to imprisonment, solitary confinement and whipping, see *post*, ss. 74, 75.

This offence cannot be tried at quarter sessions.

31. Whosoever shall unlawfully and maliciously cut off, draw up, or remove any piles, chalk or other materials fixed in the ground, and used for securing any sea bank or sea wall, or the bank, [dam,] or wall of any river, canal, [drain, aqueduct,] marsh, [reservoir, pool, port, harbour, dock, quay, wharf, jetty or lock,] or shall unlawfully and maliciously open or draw up any floodgate [or sluice,] or do any other injury or mischief to any navigable river or canal, with intent and so as thereby to obstruct or prevent the carrying on, completing or maintaining the navigation thereof, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour,

Removing the piles of any sea bank, &c., or doing any damage to obstruct the navigation of a river or canal.

and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Framed on the 7 & 8 Geo. 4, c. 30, part of sect. 12, and the corresponding section of the Irish Act, 9 Geo. 4, c. 56, s. 12.

As to imprisonment, solitary confinement and whipping, see *post*, ss. 74, 75.

This offence can be tried at quarter sessions.

### *Injuries to Ponds.*

Breaking  
down the  
dam of a  
fishery, &c.  
or mill dam,  
or poisoning  
fish.

32. Whosoever shall unlawfully and maliciously [cut through,] break down or otherwise destroy the dam, [floodgate or sluice] of any fish pond, or of any water which shall be private property, or in which there shall be any private right of fishery, with intent thereby to take or destroy any of the fish in such pond or water, or so as thereby to cause the loss or destruction of any of the fish, or shall unlawfully and maliciously put any lime or other noxious material in any such pond or water, with intent thereby to destroy any of the fish [that may then be or that may thereafter be put] therein, or shall unlawfully and maliciously cut through, break down, or otherwise destroy the dam [or floodgate] of any millpond, [reservoir or pool,] shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Framed on the 7 & 8 Geo. 4, c. 30, s. 15, and the corresponding section of the Irish Act, 9 Geo. 4, c. 56, s. 16. See

also the "Irish Fisheries Acts," 5 & 6 Vict. c. 106, s. 80, and 13 & 14 Vict. c. 88, s. 36.

As to imprisonment, solitary confinement and whipping, see *post*, ss. 74, 75.

This offence can be tried at quarter sessions.

### *Injuries to Bridges, Viaducts and Toll Bars.*

**33.** Whosoever shall unlawfully and maliciously pull [or throw] down or in anywise destroy any bridge (a) [(whether over any stream of water or not), or any viaduct or aqueduct, over or under which bridge, viaduct or aqueduct any highway, railway or canal shall pass], or do any injury with intent and so as thereby to render such bridge, [viaduct or aqueduct, or the highway, railway or canal passing over or under the same,] or any part thereof, dangerous or impassable, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Injury to a public bridge.

(a) "Any public bridge," 7 & 8 Geo. 4, c. 30, s. 13 (repealed).

Framed on the 7 & 8 Geo. 4, c. 30, s. 13, and the corresponding section of the Act for Ireland, 9 Geo. 4, c. 56, s. 13.

As to imprisonment, solitary confinement and whipping, see *post*, ss. 74, 75.

This offence cannot be tried at quarter sessions.

**34.** Whosoever shall unlawfully and maliciously throw down, level or otherwise destroy, in whole or in part, any turnpike gate [or toll bar], or any wall, chain, rail, post, bar or other fence belonging to any turnpike gate [or toll bar, or] set up or erected to prevent passengers passing by without paying

Destroying a turnpike gate, toll house, &c.

any toll directed to be paid by any act of parliament relating thereto, or any house, building or weighing engine erected for the better collection, ascertainment or security of any such toll, shall be guilty of a misdemeanor.

Framed on the 7 & 8 Geo. 4, c. 30, s. 14, and the corresponding section of the Irish Act, Geo. 4, c. 56, s. 15. And see the Act 14 & 15 Vict. c. 92 (Ireland), s. 9 (unrepealed).

No punishment is awarded. As a misdemeanor it is punishable at common law, by fine or imprisonment, or by both; and is triable at quarter sessions unless the offence amount to an unlawful combination.

### *Injuries to Railway Carriages and Telegraphs.*

Placing wood, &c. on railway with intent to obstruct or overthrow any engine, &c.

35. Whosoever shall unlawfully (*a*) and maliciously put, place, cast or throw upon or across any railway any wood, stone or other matter or thing, or shall unlawfully (*a*) and maliciously take up, remove or displace any rail, sleeper or other matter or thing belonging to any railway, or shall unlawfully (*a*) and maliciously turn, move or divert any points or other machinery belonging to any railway, or shall unlawfully (*a*) and maliciously make or show, hide or remove, any signal or light upon or near to any railway, or shall unlawfully (*a*) and maliciously do or cause to be done any other matter or thing, with intent, in any of the cases aforesaid, to obstruct, upset, overthrow, injure or destroy any engine, tender, carriage or truck using such railway (*b*), shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years, —or to be imprisoned for any term not exceeding two years, with or without hard labour, and, if a

(*a*) The 14 & 15 Vict. c. 19, s. 16, uses the words "wilfully and maliciously."

(*b*) "Or to endanger the safety of any person travelling or being upon such railway," 14 & 15 Vict. c. 19, s. 6.

male under the age of sixteen, with or without whipping.

Framed on the 14 & 15 Vict. c. 19, s. 6.

See the 24 & 25 Vict. c. 100, ss. 32, 33 and 34, *post*, as to offences against the person, the provisions of the former Acts, 3 & 4 Vict. c. 97, and 14 & 15 Vict. c. 19, having been now split up to meet the separate classification of malicious injuries to property, and offences against the person.

As to imprisonment and whipping, see *post*, ss. 74, 75.

This offence cannot be tried at quarter sessions.

**36.** Whosoever by any [unlawful] act, [or by any wilful omission or neglect] shall obstruct [or cause to be obstructed] any engine or carriage using any railway, or shall aid or assist therein, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour.

Obstructing engines or carriages on railways.

Framed on the 3 & 4 Vict. c. 97, s. 15. See the 24 & 25 Vict. c. 100, s. 34, *post*, and note; and the notes to the last section, and also s. 13 (unrepealed) of the 3 & 4 Vict. c. 97, as to the punishment of servants of railway companies guilty of misconduct.

As to imprisonment, see *post*, s. 74.

This offence can be tried at quarter sessions.

**37.** [Whosoever shall unlawfully and maliciously cut, break, throw down, destroy, injure or remove any battery, machinery, wire, cable, post or other matter or thing whatsoever, being part of or being used or employed in or about any electric or magnetic telegraph, or in the working thereof, or shall unlawfully and maliciously prevent or obstruct in any manner whatsoever the sending, conveyance or delivery of any communication by any such telegraph, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard

Injuries to electric or magnetic telegraphs.

labour (a) : provided that if it shall appear to any justice, on the examination of any person charged with any offence against this section, that it is not expedient to the ends of justice that the same should be prosecuted by indictment, the justice may proceed summarily to hear and determine the same, and the offender shall, on conviction thereof, at the discretion of the justice, either be committed to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, for any term not exceeding three months, or else shall forfeit and pay such sum of money not exceeding ten pounds as to the justice shall seem meet.]

(a) See *post*, s. 74.

These offences can be tried at quarter sessions. The accused cannot insist on being tried by a jury as he can under the summary jurisdiction in larceny acts.

Attempt to injure such telegraphs.

38. [Whosoever shall unlawfully and maliciously, by any overt act, attempt to commit any of the offences in the last preceding section mentioned, shall, on conviction thereof before a justice of the peace, at the discretion of the justice, either be committed to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, for any term not exceeding three months, or else shall forfeit and pay such sum of money not exceeding ten pounds as to the justice shall seem meet.]

The two preceding sections are new. As a specific summary mode of proceeding is given for the attempt, it is doubtful whether the accused could be convicted of the attempt on an indictment under s. 37 for the misdemeanor. See the note, *ante*, p. 62.

An appeal lies to the quarter sessions against a conviction under s. 38, or against a summary conviction under s. 37, if the sum adjudged to be paid exceeds 5*l.*, or if the imprison-



ment exceeds one month, or if the conviction is before one justice only, (see s. 68, *post.*) or either party may appeal to one of the superior courts if dissatisfied with the determination of the justice as being erroneous in point of law (20 & 21 Vict. c. 43). The justice may, however, discharge the offender on his making satisfaction to the party aggrieved (see s. 66, *post.*)

### *Injuries to Works of Art.*

39. Whosoever shall unlawfully and maliciously destroy or damage any [book, manuscript, picture, print, statue, bust, or vase, or any other article or] thing kept for the purposes of art, science, or literature, or as an object of curiosity, in any museum, gallery, cabinet, library, or other repository, which museum, gallery, cabinet, library, or other repository is either at all times or from time to time open for the admission of the public or of any considerable number of persons to view the same, either by the permission of the proprietor thereof or by the payment of money before entering the same, or any picture, statue, monument, or [other memorial of the dead,] painted glass, [or other ornament or work of art,] in any church, chapel, meeting house, or other place of divine (*a*) worship, [or in any building belonging to the queen, or to any county, riding, division, city, borough, poor law union, parish, or place, or to any university, or college or hall of any university or to any inn of court,] or in any street, square, [churchyard, burial ground, public garden or ground,] or any statue or monument exposed to public view, or any ornament, railing, or fence surrounding such statue or monument, shall be guilty of a misdemeanor, and being convicted thereof shall be liable to be imprisoned for any term not exceeding six months, with or without hard labour, and if a male under the age

Destroying  
or damaging  
works of art  
in museums,  
churches,  
&c., or in  
public places.

(a) "Religious," 8 & 9 Vict. c. 44, s. 1.

of sixteen years, with or without whipping; provided that nothing herein contained shall be deemed to affect the right of any person to recover, by action at law, damages for the injury so committed.

Framed on the 8 & 9 Vict. c. 44, ss. 1, 4, and 17 & 18 Vict. c. 33, s. 6.

As to imprisonment and whipping, see *post*, ss. 74, 75.

This offence can be tried at quarter sessions.

Some of the additional words in the section were introduced to include all monuments and other memorials of the dead.

The following very judicious observations are taken from an article from the pen of C. S. Greaves, Esq., Q.C., in "Notes and Queries," 2nd series, vol. xii. p. 130:—

"With regard to the word 'unlawfully' in this clause, it is well to observe that no one, whoever he may be, can lawfully alter or deface any monument which has been lawfully erected. Lord Coke (3 Inst. 202), speaking of 'tombs, sepulchres or monuments in a church, chancel or churchyard,' says, in general terms, and without any limitation whatever, that 'the defacing of them is punishable by the common law,' as appears by *Lady Wyche's Case*, 9 Edw. 4, 14a; and he adds, 'and as it was agreed by the whole court in *Corven's Case*,' 12 Co. Rep. 104. It is clear, then, that any person who defaces or destroys a monument is guilty of an unlawful act, and will have done that act 'unlawfully' within the meaning of this clause.

"Then as to the word 'maliciously' the 58th section of the Act provides that that word shall apply to every offence, whether it be committed from malice conceived against the owner of the property or *otherwise*. Now malice, in its legal sense, denotes any wrongful act done intentionally, without just cause or excuse; and in this respect differs from its ordinary acceptation. Any wilful destruction or defacing of a monument, therefore, seems plainly to come within this clause; unless, indeed, some just cause or excuse can be assigned for it."

### *Injuries to Cattle and other Animals.*

Killing or maiming cattle.

40. Whosoever shall unlawfully and maliciously kill, maim, or wound any cattle shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding fourteen and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without

hard labour, and with or without solitary confinement.

Framed on the 7 & 8 Geo. 4, c. 30, s. 16, and the corresponding section of the Irish Act, 9 Geo. 4, c. 56, s. 17.

As to imprisonment and solitary confinement, see *post*, ss. 74, 75.

This offence can be tried at quarter sessions.

41. Whosoever shall unlawfully and maliciously kill, maim, or wound any dog, bird, beast, or other animal, not being cattle, but being either the subject of larceny at common law, or being ordinarily kept in a state of confinement, or for any domestic purpose, shall, on conviction thereof before a justice of the peace, at the discretion of the justice, either be committed to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, for any term not exceeding six months, or else shall forfeit and pay, over and above the amount of injury done, such sum of money not exceeding twenty pounds as the justice shall seem meet (*a*); and whosoever, having been convicted of any such offence, shall afterwards commit any of the said offences in this section before mentioned, and shall be convicted thereof in like manner, shall be committed to the common gaol or house of correction, there to be kept to hard labour for such term not exceeding twelve months as the convicting justice shall think fit.

Killing or maiming other animals.

Second offence.

(*a*) Or the justice may, on a first conviction, discharge the offender on his making satisfaction to the party aggrieved, see *post*, s. 66.

Framed from the 7 & 8 Geo. 4, c. 29, s. 31, relating to the larceny of such animals. See 24 & 25 Vict. c. 96, s. 21, *ante*, p. 86.

An appeal lies to the quarter sessions if the sum adjudged to be paid exceeds 5*l*., or if the imprisonment exceeds one month, or if the conviction is before one justice only, see s. 66, *post*.

Setting fire  
to a ship (a).

42. Whosoever shall unlawfully and maliciously set fire to, [cast away,] or in anywise destroy any ship or vessel, whether the same be complete or in an unfinished state, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years, —or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

(a) The heading, "*Injuries to Ships*," inserted in the bill, is evidently accidentally omitted from the Act, as printed.

Framed on the 7 Will. 4 & 1 Vict. c. 89, part of s. 6. If the act be done with intent to defraud, it is immaterial that the ship or vessel is in the possession of the offender, see *post*, s. 59. The 12 Geo. 3, c. 24, which makes it a capital felony to burn the queen's ships of war, is still unrepealed.

As to imprisonment, solitary confinement and whipping, see *post*, ss. 74, 75.

This offence cannot be tried at quarter sessions.

Setting fire  
to ships to  
prejudice the  
owner or  
under-  
writers.

43. Whosoever shall unlawfully and maliciously set fire to, or cast away, or in anywise destroy any ship or vessel, with intent thereby to prejudice any owner or part owner of such ship or vessel, or of any goods on board the same, or any person that has underwritten or shall underwrite any policy of insurance upon such ship or vessel, or on the freight thereof, or upon any goods on board the same, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Framed on the 7 Will. 4 & 1 Vict. c. 89, part of s. 6.

As to imprisonment, solitary confinement and whipping, see *post*, ss. 74, 75.

This offence cannot be tried at quarter sessions.

44. Whosoever shall unlawfully and maliciously, Attempting to set fire to a vessel. by any overt act, attempt to set fire to, cast away, or destroy any ship or vessel, under such circumstances that if the ship or vessel were thereby set fire to, cast away, or destroyed, the offender would be guilty of felony, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding fourteen and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Framed on the analogous provision of the 9 & 10 Vict. c. 25, s. 7, respecting attempts to set fire to buildings, see *ante*, s. 8, and note.

As to imprisonment, solitary confinement and whipping, see *post*, ss. 74, 75.

If the act be done with intent to defraud, it is immaterial that the ship or vessel is in the possession of the offender, see *post*, s. 59.

This offence can be tried at quarter sessions.

45. Whosoever shall unlawfully and maliciously Placing gunpowder near a vessel with intent to damage it. place or throw in, into, upon, against, or near any ship or vessel any gunpowder or other explosive substance, with intent to destroy or damage any ship or vessel, or any machinery, working tools, goods, or chattels, shall, whether or not any explosion take place, and whether or not any injury be effected, be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term

not exceeding fourteen and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Framed on the 9 & 10 Vict. c. 25, s. 6. See the notes to s. 10, *ante*, p. 125.

As to imprisonment, solitary confinement, and whipping, see *post*, ss. 74, 75.

This offence can now be tried at quarter sessions, but see the note to s. 10, *ante*, p. 125.

Damaging  
ships other-  
wise than by  
fire.

46. Whosoever shall unlawfully and maliciously damage, otherwise than by fire, [gunpowder, or other explosive substance,] any ship or vessel, whether complete or in an unfinished state, with intent to destroy the same or render the same useless, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Framed on the 7 & 8 Geo. 4, c. 30, s. 10, and on the corresponding section of the Irish Act, 9 Geo. 4, c. 56, s. 10.

As to imprisonment, solitary confinement and whipping, see *post*, ss. 74, 75.

This offence can be tried at quarter sessions.

Exhibiting  
false signals,  
&c.

47. Whosoever shall [unlawfully mask, alter, or remove any light or signal, or] unlawfully exhibit any false light or signal, with intent to bring any ship, vessel, [or boat,] into danger, or shall unlawfully and maliciously do anything tending to the

immediate loss or destruction of any ship, vessel (a), [or boat, and for which no punishment is hereinbefore provided,] shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life, or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

(a) "In distress," 7 Will. 4 & 1 Vict. c. 89, s. 5.

Framed on the 7 Will. 4 & 1 Vict. c. 89, s. 5.

As to imprisonment, solitary confinement and whipping, see *post*, ss. 74, 75.

This offence cannot be tried at quarter sessions.

48. Whosoever shall unlawfully and maliciously cut away, cast adrift, remove, alter, deface, sink, or destroy, or shall unlawfully and maliciously do any act with intent to cut away, cast adrift, remove, alter, deface, sink, or destroy, or shall in any other manner unlawfully and maliciously injure or conceal any boat, buoy, buoy rope, perch, or mark used or intended for the guidance of seamen or the purpose of navigation, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Removing or concealing buoys and other sea marks.

This is a re-enactment and amendment of s. 28 of the un-repealed act 9 & 10 Vict. c. 99 (consolidating and amending the laws relating to wreck and salvage). See also the 17 & 18 Vict. c. 104 (Merchant Shipping Act, 1854), s. 414.

As to imprisonment, solitary confinement and whipping, see *post*, ss. 74, 75.

Destroying wrecks or any articles belonging thereto.

49. Whosoever shall unlawfully and maliciously destroy any part of any ship or vessel which shall be in distress, or wrecked, stranded, or cast on shore, or any goods, merchandise, or articles of any kind belonging to such ship or vessel, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding fourteen and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Framed on the 7 Will. 4 & 1 Vict. c. 89, s. 8.

As to imprisonment and solitary confinement, see *post*, ss. 74, 75.

This offence can be tried at quarter sessions.

*Sending Letters threatening to burn or destroy.*

Sending letters threatening to burn or destroy houses, buildings, ships, &c.

50. Whosoever shall send, deliver, or utter, or directly or indirectly cause to be received, knowing the contents thereof, any letter or writing threatening to burn or destroy any house, barn, or other building, or any rick or stack of grain, hay, or straw, or other agricultural produce, [or any grain, hay, or straw, or other agricultural produce in or under any building, or any ship or vessel, or to kill, maim, or wound any cattle,] shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding ten years and not less than three years, or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary con-



finement, and, if a male under the age of sixteen years, with or without whipping.

Framed on the 10 & 11 Vict. c. 66, s. 1. See also the 4 Geo. 4, c. 54, s. 3.

As to imprisonment, solitary confinement and whipping, see *post*, ss. 74, 75.

This offence is now triable at quarter sessions; but, as this is probably an accidental and not an intentional consequence of an alteration of punishment, justices should commit to the assizes.

*Injuries not before provided for.*

51. [Whosoever shall unlawfully and maliciously commit any damage, injury, or spoil to or upon any real or personal property whatsoever, either of a public or private nature, for which no punishment is hereinbefore provided, the damage, injury, or spoil being to an amount exceeding five pounds, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour; and in case any such offence shall be committed between the hours of nine of the clock in the evening and six of the clock in the next morning, shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding five years and not less than three, or to be imprisoned for any term not exceeding two years, with or without hard labour.]

Persons committing malicious injuries not before provided for exceeding the amount of 5*l.*

This provision is new. As to imprisonment, see *post*, s. 74. This offence is triable at quarter sessions.

52. Whosoever shall wilfully or maliciously commit any damage, injury, or spoil to or upon any real or personal property whatsoever, either of a public or private nature, for which no punishment is hereinbefore provided, shall, on conviction thereof

Persons committing damage to any property, in any case not previously provided for, may be com-

mitted or  
fined, and  
compelled by  
a justice to  
pay compensa-  
tion not  
exceeding 5*l*.

Application  
of the money  
awarded.

Not to ex-  
tend to cer-  
tain cases  
herein  
named.

before a justice of the peace, [at the discretion of the justice, either be committed to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour for any term not exceeding two months, or else] shall forfeit and pay such sum of money not exceeding five pounds as to the justice shall seem meet, and also such further sum of money as shall appear to the justice to be a reasonable compensation for the damage, injury, or spoil so committed, not exceeding the sum of five pounds; which last-mentioned sum of money shall, in the case of private property, be paid to the party aggrieved (*a*); and in the case of property of a public nature, or wherein any public right is concerned, the money shall be applied in the same manner as every penalty imposed by a justice of the peace under this act; and if such sums of money, together with costs (if ordered), shall not be paid either immediately after the conviction, or within such period as the justice shall at the time of the conviction appoint, the justice may commit the offender to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour as the justice shall think fit, for any term not exceeding two months, unless such sums and costs be sooner paid: provided that nothing herein contained shall extend to any case where the party acted under a fair and reasonable supposition that he had a right to do the act complained of, nor to any trespass, not being wilful and malicious, committed in hunting, fishing, or in the pursuit of game, but that every such trespass shall be punish-

(*a*) Or the justice may discharge the offender on making satisfaction to the party aggrieved, see *post*, s. 66.

able in the same manner as if this act had not passed.

Framed on the 7 & 8 Geo. 4, c. 30, s. 24, and on the Irish Act, 14 & 15 Vict. c. 92, s. 3. See also the following section, *infra*. An appeal lies to the quarter sessions against a conviction under this section, where the sum adjudged to be paid exceeds 5*l.*, or the imprisonment exceeds one month, or the conviction is before one justice only, (see s. 68, *post*;) or either party may appeal to one of the superior courts if dissatisfied with the determination of the justice, as being erroneous in point of law: 20 & 21 Vict. c. 43.

53. [The provisions in the last preceding section contained shall extend to any person who shall wilfully or maliciously commit any injury to any tree, sapling, shrub, or underwood, for which no punishment is hereinbefore provided.]

Preceding section to extend to trees.

This provision is new.

*Making Gunpowder to commit Offences, and searching for the same.*

54. Whosoever shall make or manufacture, or knowingly have in his possession, any gunpowder or other explosive substance, or any dangerous or noxious thing, or any machine, engine, instrument, or thing, with intent thereby or by means thereof to commit, or for the purpose of enabling any other person to commit, any of the felonies in this act mentioned, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Making or having gunpowder, &c. with intent to commit any felony against this act.

This section is framed on and extends the 9 & 10 Vict. c. 25, s. 8. As to imprisonment, solitary confinement, and whipping, see *post*, ss. 74, 75. This offence is now triable at quarter sessions. See the note to s. 10, *ante*, p. 125.

SECTION 25  
 ANY JUSTICE OF THE PEACE OF ANY COUNTY OR DISTRICT IN WHICH ANY MACHINE, ENGINE, IMPLEMENT OR TOOL, OR ANY GUNPOWDER OR OTHER EXPLOSIVE, OR ANY INFLAMMABLE OR TOXIC SUBSTANCE, IS SUSPECTED TO BE KEPT, MADE, OR CARRIED FOR THE PURPOSE OF BEING USED IN COMMITTING ANY OF THE FELONIES IN THIS ACT MENTIONED, UPON REASONABLE CAUSE ASSIGNED UPON OATH OR AFFIRMATION, MAY ISSUE A WARRANT UNDER HIS HAND AND SEAL FOR SEARCHING IN THE DAYTIME ANY HOUSE, SHED, BUILDING, STOREHOUSE, WAREHOUSE, SHOP, OFFICE, WORKSHED, OR OTHER PLACE, OR ANY CARRIAGE, BOAT, SHIP, SHIP'S BOAT, OR VESSEL, IN WHICH THE SAME ARE SUSPECTED TO BE MADE, KEPT, OR CARRIED FOR THE PURPOSES HEREIN MENTIONED; AND EVERY PERSON OBTAINING IN THE EXECUTION OF ANY SUCH WARRANT SHALL BE OBLIGED TO REMOVE TO PROPER PLACES, AND TO KEEP IN SUCH PLACES, ALL SUCH MACHINE, ENGINE, IMPLEMENT, TOOL, OR TOOL, AND ALL SUCH GUNPOWDER, EXPLOSIVE, OR INFLAMMABLE OR TOXIC SUBSTANCES FOUND UPON SUCH SEARCH, AND IF HE SHALL HAVE GOOD CAUSE TO SUSPECT THAT SUCH PERSON IS KEPT IN COMMITTING ANY SUCH FELONY, HE MAY TAKE SUCH PERSONS, BAGGAGES, CASES, AND OTHER EFFECTS, AND IF SUCH PERSONS SHALL BE, THE SAME SHALL BE KEPT IN SUCH PLACES WHICH ARE GIVEN TO PERSONS KEPT IN SUCH PLACES QUANTITIES OF GUNPOWDER AND COMPOUNDS THEREOF AS PROVIDED BY THE ACT PASSED IN THE TWENTY-THIRD AND TWENTY-FOURTH YEARS OF THE REIGN OF HER PRESENT MAJESTY, IN THE FIRST YEAR OF WHICH YEAR AND NINETEEN, INTITLED "AN ACT TO AMEND THE LAW CONCERNING THE MAKING, KEEPING, AND CARRYING OF GUNPOWDER AND COMPOUNDS THEREOF, AND CONCERNING THE MAKING AND USE OF FIREWORKS."

(a) C. 25, s. 12  
 satisfactory

Frames

*Other Matters.*

**56.** In the case of every felony punishable under this act, every principal in the second degree (*a*), and every accessory before the fact, shall be punishable in the same manner as the principal in the first degree is by this act punishable; and every accessory after the fact to any felony punishable under this act shall on conviction be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement (*b*); and every person who shall aid, abet, counsel, or procure the commission of any misdemeanor punishable under this act shall be liable to be proceeded against, indicted, and punished as a principal offender.

Principals in the second degree and accessories. Abettors in misdemeanors.

(*a*) See the note to s. 98 of the 24 & 25 Vict. c. 96, *ante*, p. 98.

(*b*) As to imprisonment and solitary confinement, see *post*, ss. 74, 75.

See the Accessories and Abettors Act, 24 & 25 Vict. c. 94, ss. 1, 2, 4, 8, and notes to those sections, (*ante*, pp. 1—5,) from which it will be seen that this section, except as regards solitary confinement, is merged in the more general provisions of that act.

**57.** Any constable or peace officer may take into custody, without warrant, any person whom he shall find lying or loitering in any highway, yard or other place during the night (*c*), and whom he shall have good cause to suspect of having committed or being about to commit any felony against this act, and shall take such person as soon as reasonably may be before a justice of the peace, to be dealt with according to law.

A person loitering at night, and suspected of any felony against this act may be apprehended.

(*c*) There is no definition of "night" in this act, as there is in cap. 96. See the note to s. 52 of the 24 & 25 Vict. c. 26, *ante*, p. 59.

Taken from the 9 & 10 Vict. c. 25, s. 13. See s. 61, *post*, and the 14 & 15 Vict. c. 19, s. 11 (unrepealed), in the note to s. 104 of the 24 & 25 Vict. c. 96, *ante*, p. 104.

Malice against owner of property unnecessary.

58. Every punishment and forfeiture by this act imposed on any person maliciously committing any offence, whether the same be punishable upon indictment or upon summary conviction, shall equally apply and be enforced, whether the offence shall be committed from malice conceived against the owner of the property in respect of which it shall be committed or otherwise.

Framed on the 7 & 8 Geo. 4, c. 30, s. 25, and the corresponding provisions of the Irish Act, 9 Geo. 4, c. 56, s. 32. See also the 8 & 9 Vict. c. 44, s. 2.

Provisions of this act shall apply to persons in possession of the property injured.

59. [Every provision of this act not hereinbefore so applied shall apply to every person who, with intent to injure or defraud any other person, shall do any of the acts hereinbefore made penal, although the offender shall be in possession of the property against or in respect of which such act shall be done.]

This provision is new. The following clause was introduced into the bill and passed the Lords in 1860, but was struck out by the committee of the House of Commons:—  
“Every provision of this act not hereinbefore so applied, shall apply to every person being a part owner, joint owner, or the wife of an owner, part owner, or joint owner, who with intent to injure or defraud any owner, part owner, joint owner, or other person, shall do any of the acts hereinbefore made penal against or in respect of any property of which the offender or the husband of the offender shall be owner, part owner, or joint owner.”

Intent to injure or defraud particular persons need not be stated in any indictment.

60. It shall be sufficient in any indictment for any offence against this act, where it shall be necessary to allege an intent to injure or defraud, to allege that the party accused did the act with intent to injure or defraud (as the case may be), without

alleging an intent to injure or defraud any particular person ; and on the trial of any such offence it shall not be necessary to prove an intent to injure or defraud any particular person, but it shall be sufficient to prove that the party accused did the act charged with an intent to injure or defraud (as the case may be).

Framed on a corresponding section in the 14 & 15 Vict. c. 100, s. 8 (now repealed).

61. Any person found committing any offence against this act, whether the same be punishable upon indictment or upon summary conviction, may be immediately apprehended, without a warrant, by any peace officer, or the owner of the property injured, or his servant, or any person authorized by him, and forthwith taken before some neighbouring justice of the peace, to be dealt with according to law.

Persons in the act of committing any offence may be apprehended without a warrant.

Framed on the 7 & 8 Geo. 4, c. 30, s. 28, and the corresponding provision of the Irish Act, 9 Geo. 4, c. 56, s. 35.

62. Where any person shall be charged on the oath of a credible witness before any justice of the peace with any offence punishable on summary conviction under this act, the justice may summon the person charged to appear at a time and place to be named in such summons ; and if he shall not appear accordingly, then (upon proof of the due service of the summons upon such person by delivering the same to him personally, or by leaving the same at his usual place of abode), the justice may either proceed to hear and determine the case *ex parte*, or issue his warrant for apprehending such person and bringing him before himself or some other justice of the peace ; or the justice before whom the charge

Mode of compelling the appearance of persons punishable on summary conviction.

shall be made may (if he shall so think fit), without any previous summons (unless where otherwise specially directed), issue such warrant; and the justice before whom the person charged shall appear or be brought shall proceed to hear and determine the case.

Framed on the 7 & 8 Geo. 4, c. 30, s. 30. See also the 11 & 12 Vict. c. 43, and the Irish Act, 14 & 15 Vict. c. 93 (both unrepealed), and *post*, s. 76.

Abettors in offences punishable on summary conviction.

63. Whosoever shall aid, abet, counsel or procure the commission of any offence which is by this act punishable on summary conviction, either for every time of its commission, or for the first and second time only, or for the first time only, shall, on conviction before a justice of the peace, be liable, for every first, second or subsequent offence of aiding, abetting, counselling or procuring, to the same forfeiture and punishment to which a person guilty of a first, second or subsequent offence as a principal offender is by this act made liable.

Framed on the 7 & 8 Geo. 4, c. 30, s. 31.

Application of forfeitures and penalties upon summary convictions.

64. Every sum of money which shall be forfeited for the amount of any injury done shall be assessed in each case by the convicting justice, and shall be paid to the party aggrieved, except where he is unknown, and in that case such sum shall be applied in the same manner as a penalty; and every sum which shall be imposed as a penalty by any justice of the peace, whether in addition to such amount or otherwise, shall be paid and applied in the same manner as other penalties recoverable before justices of the peace are to be paid and applied in cases where the statute imposing the same contains no directions for the payment thereof to any



person: (a) provided that where several persons shall join in the commission of the same offence, and shall, upon conviction thereof, each be adjudged to forfeit a sum equivalent to the amount of the injury done, in every such case no further sum shall be paid to the party aggrieved than such value or amount; and the remaining sum or sums forfeited shall be applied in the same manner as any penalty imposed by a justice of the peace is hereinbefore directed to be applied.

Proviso where several persons join in commission of same offence.

(a) That is to say, the penalty is to be paid to the clerk to the justices, who is to pay the same to the treasurer of the county, riding, division, liberty, city, borough or place for which the justice has acted, 11 & 12 Vict. c. 43, s. 31.

Framed on the 7 & 8 Geo. 4, c. 30, s. 32. See also the 18 & 19 Vict. c. 126, s. 22, and the Irish Act, 14 & 15 Vict. c. 93, s. 22 (both unrepealed), and also the 11 & 12 Vict. c. 43, s. 31 (unrepealed).

65. In every case of a summary conviction under this act, where the sum which shall be forfeited for the amount of the injury done, or which shall be imposed as a penalty by the justice, shall not be paid, either immediately after the conviction, or within such period as the justice shall, at the time of the conviction, appoint, the convicting justice (unless where otherwise specially directed) may commit the offender to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, according to the discretion of the justice, for any term not exceeding two months, where the amount of the sum forfeited, or of the penalty imposed, or of both, (as the case may be,) together with the costs, shall not exceed five pounds; and for any term not exceeding four months where the amount, with costs, shall not exceed ten pounds; and for any term not exceeding six months in any other case; the

If a person summarily convicted shall not pay, &c., the justice may commit him.

commitment to be determinable in each of the cases aforesaid upon payment of the amount and costs.

Framed on the 7 & 8 Geo. 4, c. 30, s. 33. See also the Irish Act, 14 & 15 Vict. c. 93, s. 22.

The justice may discharge the offender in certain cases.

**66.** Where any person shall be summarily convicted before a justice of the peace of any offence against this act, and it shall be a first conviction, the justice may, if he shall so think fit, discharge the offender from his conviction upon his making such satisfaction to the party aggrieved for damages and costs, or either of them, as shall be ascertained by the justice.

Framed on the 7 & 8 Geo. 4, c. 30, s. 39, and the Irish Act, 14 & 15 Vict. c. 93, s. 21.

A summary conviction shall be a bar to any other proceeding for the same cause.

**67.** When any person convicted of any offence punishable upon summary conviction by virtue of this act shall have paid the sum adjudged to be paid, together with costs, under such conviction, or shall have received a remission thereof from the crown, or the lord lieutenant or other chief governor of Ireland, or shall have suffered the imprisonment awarded for nonpayment thereof, or the imprisonment awarded in the first instance, or shall have been so discharged from his conviction by any justice as aforesaid, he shall be released from all further or other proceedings for the same cause.

Framed on the 7 & 8 Geo. 4, c. 30, s. 36.

Appeal.

**68.** In all cases where the sum adjudged to be paid on any summary conviction shall exceed five pounds (*a*), or the imprisonment adjudged shall

(*a*) That is to say, the penalty and value of the thing in question, where the value is included in the sum adjudged to be paid.

exceed one month, or the conviction shall take place before one justice only, any person who shall think himself aggrieved by any such conviction may appeal to the next court of general or quarter sessions which shall be holden not less than twelve days after the day of such conviction, for the county or place wherein the cause of complaint shall have arisen ; provided that such person shall give to the complainant a notice in writing of such appeal, and of the cause and matter thereof, within three days after such conviction, and seven clear days at the least before such sessions, and shall also either remain in custody until the sessions, or shall enter into a recognizance, with two sufficient sureties, before a justice of the peace, conditioned personally to appear at the said sessions and to try such appeal, and to abide the judgment of the court thereupon, and to pay such costs as shall be by the court awarded ; [or if such appeal shall be against any conviction whereby only a penalty or sum of money shall be adjudged to be paid, shall deposit with the clerk of the convicting justice such a sum of money as such justice shall deem to be sufficient to cover the sum so adjudged to be paid, together with the costs of the conviction and the costs of the appeal ;] and upon such notice being given, and such recognizance being entered into, [or such deposit being made,] the justice before whom such recognizance shall be entered into, [or such deposit shall be made,] shall liberate such person if in custody ; and the court at such sessions shall hear and determine the matter of the appeal, and shall make such order therein, with or without costs to either party, as to the court shall seem meet ; and in case of the dismissal of the appeal, or the affirmation of the conviction, shall order and adjudge the

offender to be punished according to the conviction, and to pay such costs as shall be awarded, and shall, if necessary, issue process for enforcing such judgment; [and, in any case where after any such deposit shall have been made as aforesaid the conviction shall be affirmed, the court may order the sum thereby adjudged to be paid, together with the costs of the conviction and the costs of the appeal, to be paid out of the money deposited, and the residue thereof, if any, to be repaid to the party convicted; and, in any case where after any such deposit the conviction shall be quashed, the court shall order the money deposited to be repaid to the party convicted; and in every case where any conviction shall be quashed on appeal as aforesaid, the clerk of the peace or other proper officer shall forthwith indorse on the conviction a memorandum that the same has been quashed; and whenever any copy or certificate of such conviction shall be made, a copy of such memorandum shall be added thereto, and shall be sufficient evidence that the conviction has been quashed in every case where such copy or certificate would be sufficient evidence of such conviction.]

Framed on the 7 & 8 Geo. 4, c. 30, s. 38.

certiorari, **69.** No such conviction, or adjudication made on appeal therefrom, shall be quashed for want of form, or be removed by certiorari into any of her Majesty's superior courts of record; and no warrant of commitment shall be held void by reason of any defect therein, provided it be therein alleged that the party has been convicted, and there be a good (a) valid conviction to sustain the same.

Appeal. paid. poun. question be paid. ed on the 7 & 8 Geo. 4, c. 30, s. 39.

**70.** Every justice of the peace before whom any person shall be convicted of any offence against this act shall transmit the conviction to the next court of general or quarter sessions which shall be holden for the county or place wherein the offence shall have been committed, there to be kept by the proper officer among the records of the court ; and upon any indictment or information against any person for a subsequent offence, a copy of such conviction, certified by the proper officer of the court (a), or proved to be a true copy, shall be sufficient evidence to prove a conviction for the former offence, and the conviction shall be presumed to have been unappealed against until the contrary be shown.

Convictions to be returned to the quarter sessions.

How far evidence in future cases.

(a) Proof of the signature of the officer is unnecessary. See the 8 & 9 Vict. c. 113, s. 1.

Framed on the 7 & 8 Geo. 4, c. 30, s. 40. The identity of the offender must be shown. See the note to section 112 of the Larceny Act, *ante*, p. 110.

**71.** All actions and prosecutions to be commenced against any person for anything done in pursuance of this act shall be laid and tried in the county where the fact was committed, and shall be commenced within six months after the fact committed, and not otherwise ; and notice in writing of such action, and of the cause thereof, shall be given to the defendant one month at least before the commencement of the action ; and in any such action the defendant may plead the general issue, and give this act and the special matter in evidence at any trial to be had thereupon ; and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have

Venue in proceedings against persons acting under this act.

Notice of action.

General issue, &c.

been paid into court after such action brought, by or on behalf of the defendant; and if a verdict shall pass for the defendant, or the plaintiff shall become nonsuit, or discontinue any such action after issue joined, or if, upon demurrer or otherwise, judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for the same as any defendant has by law in other cases; and though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the judge before whom the trial shall be shall certify his approbation of the action.

Framed on the 7 & 8 Geo. 4, c. 30, s. 41, and on the corresponding Irish Act, 9 Geo. 4, c. 56, s. 53.

Offences committed within the jurisdiction of the admiralty.

72. All indictable offences mentioned in this act which shall be committed within the jurisdiction of the admiralty of England or Ireland shall be deemed to be offences of the same nature and liable to the same punishments as if they had been committed upon the land in England or Ireland, and may be dealt with, inquired of, tried, and determined in any county or place in England or Ireland in which the offender shall be apprehended or be in custody, in the same manner in all respects as if they had been actually committed in that county or place; and in any indictment for any such offence, or for being an accessory to such an offence, the venue in the margin shall be the same as if the offence had been committed in such county or place, and the offence shall be averred to have been committed "on the high seas:" provided that nothing herein contained shall alter or affect any of the laws re-

ating to the government of her majesty's land or naval forces.

73. [Whenever any person shall be convicted of any indictable misdemeanor punishable under this act, the court may, if it shall think fit, in addition to or in lieu of any of the punishments by this act authorized, fine the offender, and require him to enter into his own recognizances, and to find sureties, both or either, for keeping the peace and being of good behaviour; and in case of any felony punishable under this act, the court may, if it shall think fit, require the offender to enter into his own recognizances, and to find sureties, both or either, for keeping the peace, in addition to any punishment by this act authorized: provided that no person shall be imprisoned under this clause for not finding sureties for any period exceeding one year.]

Fine and sureties for keeping the peace; in what cases.

74. Whenever imprisonment, with or without hard labour, may be awarded for any indictable offence under this act, the court may sentence the offender to be imprisoned, or to be imprisoned and kept to hard labour, in the common gaol or house of correction.

Hard labour.

Framed on the 7 & 8 Geo. 4, c. 30, s. 17.

75. Whenever solitary confinement may be awarded for any indictable offence under this act, the court may direct the offender to be kept in solitary confinement for any portion or portions of his imprisonment, or of his imprisonment with hard labour, not exceeding one month at any one time, and not exceeding three months in any one year; and whenever whipping may be awarded for any

Solitary confinement and whipping.

indictable offence under this act, the court may sentence the offender to be once privately whipped; and the number of strokes, and the instrument with which they shall be inflicted, shall be specified by the court in the sentence.]

The first part of the section is framed on the 7 Will. 4 & 1 Vict. c. 90, s. 5.

Summary proceedings in England may be under the 11 & 12 Vict. c. 43, and in Ireland under the 14 & 15 Vict. c. 93;

76. [Every offence hereby made punishable on summary conviction may be prosecuted in England in the manner directed by the act of the session holden in the eleventh and twelfth years of queen Victoria, chapter forty-three, so far as no provision is hereby made for any matter or thing which may be required to be done in the course of such prosecution, and may be prosecuted in Ireland before two or more justices of the peace, or one metropolitan or stipendiary magistrate, in the manner directed by the act of the session holden in the fourteenth and fifteenth years of queen Victoria, chapter ninety-three, or in such other manner as may be directed by any act that may be passed for like purposes, and all provisions contained in the said acts shall be applicable to such prosecutions in the same manner as if they were incorporated in this act: provided that nothing in this act contained shall in any manner alter or affect any enactment relating to procedure in the case of any offence punishable on summary conviction within the city of London or the metropolitan police district, or the recovery or application of any penalty or forfeiture for any such offence.]

except in London and the metropolitan police district.

The costs of the prosecution of misdemeanors against this

77. [The court before which any indictable misdemeanor against this act shall be prosecuted or tried may allow the costs of the prosecution in the



same manner as in cases of felony ; and every order for the payment of such costs shall be made out, and the sum of money mentioned therein paid and repaid, upon the same terms and in the same manner in all respects as in cases of felony.] act may be allowed.

See the note to the corresponding section of the Larceny Act, 24 & 25 Vict. c. 96, s. 121, *ante*, p. 118.

78. Nothing in this act contained shall extend to Scotland, except as hereinbefore otherwise expressly provided. Act not to extend to Scotland.

79. This act shall commence and take effect on the first day of November, one thousand eight hundred and sixty-one. Commencement of act.

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24 & 25 VICT. CAP. 98.

*An Act to consolidate and amend the Statute Law of England and Ireland relating to indictable Offences by Forgery.*

[6th August, 1861.]

Whereas it is expedient to consolidate and amend the statute law of England and Ireland relating to indictable offences by forgery (*a*) : be it enacted by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament

(*a*) The offence of forgery cannot be tried at quarter sessions. See the statute 5 & 6 Vict. c. 38 (unrepealed).

assembled, and by the authority of the same, as follows :

As to forging her majesty's seals :

Forging the  
great seal,  
privy seal,  
&c.

1. Whosoever shall forge or counterfeit, or shall utter, knowing the same to be forged or counterfeited, the great seal of the united kingdom, her majesty's privy seal, any privy signet of her majesty, her majesty's royal sign manual, any of her majesty's seals appointed by the twenty-fourth article of the union between England and Scotland to be kept, used, and continued in Scotland, the great seal of Ireland, or the privy seal of Ireland, [or shall forge or counterfeit the stamp or impression of any of the seals aforesaid, or shall utter any document or instrument whatsoever, having thereon or affixed thereto the stamp or impression of any such forged or counterfeited seal, knowing the same to be the stamp or impression of such forged or counterfeited seal, or any forged or counterfeited stamp or impression made or apparently intended to resemble the stamp or impression of any of the seals aforesaid, knowing the same to be forged or counterfeited, or shall forge or alter, or utter knowing the same to be forged or altered, any document or instrument having any of the said stamps or impressions thereon or affixed thereto] shall be guilty of [felony,] and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years with or without hard labour, and with or without solitary confinement.

Framed on the 11 Geo. 4 & 1 Will. 4, c. 66, s. 2, and extended to Ireland. This offence was, under the last-men

tioned act, high treason. As to imprisonment and solitary confinement, see *post*, ss. 52, 53.

As to forging transfers of stock, &c. :

2. Whosoever shall forge or alter or shall [offer,] utter, [dispose of, or put off,] knowing the same to be forged or altered, any transfer of any share or interest of or in any stock, annuity, or other public fund which now is or hereafter may be transferable at the bank of England or at the bank of Ireland, or of or in the capital stock of any body corporate, company, or society which now is or hereafter may be established by charter, or [by, under, or by virtue of any] act of parliament, or shall forge or alter, or shall [offer,] utter, [dispose of, or put off,] knowing the same to be forged or altered, any power of attorney or other authority to transfer any share or interest of or in any such stock, annuity, public fund, or capital stock, or to receive any dividend [or money] payable in respect of any such share or interest, or shall demand or endeavour to have any such share or interest transferred, or to receive any dividend [or money] payable in respect thereof, by virtue of any such forged or altered power of attorney or other authority, knowing the same to be forged or altered, with intent in any of the cases aforesaid to defraud, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Forging transfer of certain stock, and power of attorney relating thereto.

Framed on the 11 Geo. 4 & 1 Will. 4, c. 66, s. 6. That and the Irish Act, 37 Geo. 3, c. 54, ss. 12, 15, are assim-

lated. As to imprisonment and solitary confinement, see *post*, ss. 52, 53.

Personating the owner of certain stock, and transferring or receiving or endeavouring to transfer or receive the dividends.

3. Whosoever shall falsely and deceitfully personate any owner of any share or interest of or in any stock, annuity, or other public fund which now is or hereafter may be transferable at the bank of England, or at the bank of Ireland, or any owner of any share or interest of or in the capital stock of any body corporate, company, or society which now is or hereafter may be established by charter, or by [under, or by virtue of] any act of parliament, or any owner of any dividend [or money] payable in respect of any such share or interest as aforesaid, and shall thereby transfer or endeavour to transfer any share or interest belonging to any such owner, or thereby receive or endeavour to receive any money due to any such owner, as if such offender were the true and lawful owner, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Framed on the 11 Geo. 4 & 1 Will. 4, c. 66, latter part of s. 6, and extended to Ireland. As to imprisonment and solitary confinement, see *post*, ss. 52, 53.

Forging attestation to power of attorney for transfer of stock, &c.

4. Whosoever shall forge [any name, handwriting, or signature purporting to be] the name, handwriting, [or signature] of a witness attesting the execution of any power of attorney or other authority to transfer any share or interest of or in any such stock, annuity, public fund, or capital stock as is in either of the last two preceding sections mentioned, or to receive any dividend [or

money] payable in respect of any such share or interest, or shall [offer,] utter, [dispose of, or put off] any such power of attorney or other authority, with any such forged name, handwriting, or signature thereon, knowing the same to be forged, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Framed on the 11 Geo. 4 & 1 Will. 4, c. 66, s. 8, and extended to Ireland. As to imprisonment and solitary confinement, see *post*, ss. 52, 53.

5. Whosoever shall wilfully make any false entry in, or wilfully alter any word or figure in, any of the books of account kept by the governor and company of the bank of England or the governor and company of the bank of Ireland, in which books the accounts of the owners of any stock, annuities, or other public funds which now are or hereafter may be transferable at the bank of England or at the bank of Ireland shall be entered and kept, or shall in any manner wilfully falsify any of the accounts of any of such owners in any of the said books, with intent in any of the cases aforesaid to defraud, or shall wilfully make any transfer of any share or interest of or in any stock, annuity, or other public fund which now is or hereafter may be transferable at the bank of England or at the bank of Ireland, in the name of any person not being the true and lawful owner of such share or interest, with intent to defraud, shall be guilty of felony, and being convicted thereof shall be liable,

Making false entries in the books of the public funds.

at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Framed on the 11 Geo. 4 & 1 Will. 4, c. 66, s. 5, and that section and the Irish Act, 37 Geo. 3, c. 54, ss. 14, 16, assimilated. As to imprisonment and solitary confinement, see *post*, ss. 52, 53.

Clerks of the bank making out false dividend warrants.

6. Whosoever, being a clerk, officer, or servant of or other person employed or intrusted by the governor and company of the bank of England or the governor and company of the bank of Ireland, shall knowingly make out or deliver any dividend warrant, [or warrant for payment of any annuity, interest, or money payable at the bank of England or Ireland,] for a greater or less amount than the person on whose behalf such warrant shall be made out is entitled to, with intent to defraud, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Framed on the 11 Geo. 4 & 1 Will. 4, c. 66, s. 9, and that and the Irish Act, 37 Geo. 3, c. 54, s. 17, assimilated.

As to imprisonment and solitary confinement, see *post*, ss. 52, 53.

As to forging India bonds :

Forging an East India bond.

7. Whosoever shall forge or alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or altered, any bond commonly called an East India bond, [or any bond, debenture, or secu-

rity issued or made under the authority of any act passed or to be passed relating to the East Indies,] or any indorsement on or assignment of any such bond, [debenture, or security,] with intent to defraud, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Framed on the 11 Geo. 4 & 1 Will. 4, c. 66, part of sect. 3. See also the now repealed provisions of the acts relating to India: 21 & 22 Vict. c. 3, s. 10; 21 & 22 Vict. c. 106, s. 50; 22 & 23 Vict. c. 11, s. 10; 22 & 23 Vict. c. 39, s. 13; 23 & 24 Vict. c. 130, s. 13.

As to imprisonment and solitary confinement, see *post*, ss. 52, 53.

As to forging exchequer bills, &c.:

8. Whosoever shall forge or alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or altered, any exchequer bill or exchequer bond or exchequer debenture, or any indorsement on or assignment of any exchequer bill or exchequer bond or exchequer debenture, or any receipt or certificate for interest accruing thereon, with intent to defraud, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years with or without hard labour, and with or without solitary confinement.

Forging exchequer bills, bonds and debentures, &c.

Framed on the 11 Geo. 4 & 1 Will. 4, c. 66, s. 3. See also the 16 & 17 Vict. c. 23, s. 41 (repealed). As to imprisonment and solitary confinement, see *post*, ss. 52, 53.

9. Whosoever, without lawful authority or excuse Making

plates, &c. in imitation of those used for exchequer bills, &c.

(the proof whereof shall lie on the party accused), shall make or cause or procure to be made, or shall aid or assist in making, or shall knowingly have in his custody or possession, any [frame, mould, or] instrument having therein any words, letters, figures, marks, lines, or devices peculiar to and appearing in the substance of any paper provided or to be provided or used for exchequer bills or exchequer bonds [or exchequer debentures,] or any machinery for working any threads into the substance of any paper, or any such thread, and intended to imitate such words, letters, figures, marks, lines, threads, or devices, or any plate peculiarly employed for printing such exchequer bills, bonds, [or debentures,] or any die [or seal] peculiarly used for preparing any such plate, or for sealing such exchequer bills, bonds, [or debentures,] or any plate, die, [or seal] intended to imitate any such plate, die, [or seal] as aforesaid, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Framed on the repealed sections of the Exchequer Bills Acts, 5 & 6 Vict. c. 66, s. 9; 16 & 17 Vict. c. 132, s. 10. As to imprisonment and solitary confinement, see *post*, ss. 52, 53.

Making paper in imitation of that used for exchequer bills, &c.

10. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), shall make, or cause or procure to be made, or aid or assist in making, any paper in the substance of which shall appear any words, letters, figures, marks, lines, threads, or other devices



peculiar to and appearing in the substance of any paper provided or to be provided or used for such exchequer bills, bonds, [or debentures,] or any part of such words, letters, figures, marks, lines, threads, or other devices, and intended to imitate the same, or shall knowingly have in his custody or possession any paper whatsoever, in the substance whereof shall appear any such words, letters, figures, marks, lines, threads, or devices as aforesaid, or any parts of such words, letters, figures, marks, lines, threads, or other devices, and intended to imitate the same, or shall cause or assist in causing any such words, letters, figures, marks, lines, threads, or devices as aforesaid, or any part of such words, letters, figures, marks, lines, threads, or other devices, and intended to imitate the same, to appear in the substance of any paper whatever, or shall take or assist in taking any impression of any such plate, die, [or seal] as in the last preceding section mentioned, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Framed on the provisions mentioned in the note to sect. 9. As to imprisonment and solitary confinement, see *post*, ss. 52, 53.

11. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), shall purchase or receive, or knowingly have in his custody or possession, any paper manufactured and provided by or under the directions

Having in possession paper, plates, or dies to be used for exchequer bills, &c.

of the commissioners of inland revenue or commissioners of her majesty's treasury, for the purpose of being used as exchequer bills or exchequer bonds [or exchequer debentures,] before such paper shall have been duly stamped, signed, and issued for public use, or any such plate, die, or seal as in the last two preceding sections mentioned, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding three years, with or without hard labour.

Framed on the repealed sections of the 5 & 6 Vict. c. 66, s. 10, and 16 & 17 Vict. c. 132, s. 11.

As to imprisonment, see *post*, s. 52.

As to forging bank notes :

Forging a  
bank note,  
&c.

12. Whosoever shall forge or alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or altered, any note or bill of exchange of the governor and company of the bank of England or of the governor and company of the bank of Ireland, [or of any other body corporate, company, or person carrying on the business of bankers,] commonly called a bank note, a bank bill of exchange, or a bank post bill, or any indorsement on or assignment of any bank note, bank bill of exchange, or bank post bill, with intent to defraud, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Framed on the 11 Geo. 1, c. 9, s. 6; 21 & 22 Geo. 3, c. 16 (Ireland), s. 15; 11 Geo. 4 & 1 Will. 4, c. 66, s. 3; and those

provisions assimilated. As to imprisonment and solitary confinement, see *post*, ss. 52, 53.

13. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), shall purchase or receive from any other person, or have in his custody or possession, any forged bank note, bank bill of exchange, or bank post bill, or blank bank note, blank bank bill of exchange, or blank bank post bill, knowing the same to be forged, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding fourteen years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour.

Purchasing or receiving or having forged bank notes.

Framed on the 11 Geo. 4 & 1 Will. 4, c. 66, s. 12; and that section and the Irish Act, 49 Geo. 3, c. 13, s. 2, are assimilated. As to imprisonment, see *post*, s. 52.

As to making and engraving plates, &c. for bank notes, &c.:

14. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), shall make or use, or knowingly have in his custody or possession, any frame, mould, or instrument for the making of paper with the words "Bank of England" or "Bank of Ireland," [or any part of such words] intended to resemble and pass for the same, visible in the substance of the paper, or for the making of paper with curved or waving bar lines, or with the laying wire lines thereof in a waving or curved shape, or with any number, sum, or amount expressed in a word or words in roman letters, visible in the substance of the paper, [or with any device or distinction peculiar to and ap-

Making or having mould for making paper with the words "bank of England," or "bank of Ireland," or with curved bar lines, &c., or selling such paper.

pearing in the substance of the paper used by the governor and company of the banks of England and Ireland respectively for any notes, bills of exchange, or bank post bills of such banks respectively,] or shall make, use, sell, expose to sale, utter, or dispose of, or knowingly have in his custody or possession, any paper whatsoever with the words "Bank of England" or "Bank of Ireland," [or any part of such words intended to resemble and pass for the same,] visible in the substance of the paper, or any paper with curved or waving bar lines, or with the laying wire lines thereof in a waving or curved shape, or with any number, sum, or amount expressed in a word or words in roman letters, appearing visible in the substance of the paper, [or with any device or distinction peculiar to and appearing in the substance of the paper used by the governor and company of the banks of England and Ireland respectively for any notes, bills of exchange, or bank post bills of such banks respectively,] or shall by any art or contrivance cause the words "Bank of England" or "Bank of Ireland," [or any part of such words intended to resemble and pass for the same, or any device or distinction peculiar to and appearing in the substance of the paper used by the governor and company of the banks of England and Ireland respectively for any notes, bills of exchange, or bank post bills of such banks respectively,] to appear visible in the substance of any paper, or shall cause the numerical sum or amount of any bank note, bank bill of exchange, or bank post bill, blank bank note, blank bank bill of exchange, or blank bank post bill, in a word or words in roman letters, to appear visible in the substance of the paper

whereon the same shall be written or printed, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding fourteen years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour.

Framed on the 1 Geo. 4, c. 92, ss. 1, 2; 11 Geo. 4 & 1 Will. 4, c. 66, s. 13; and on the Irish Acts, 38 Geo. 3, c. 53, ss. 3, 4, and 39 Geo. 3, c. 63, s. 13, and those provisions assimilated. As to imprisonment, see *post*, s. 52.

15. Nothing in the last preceding section contained shall prevent any person from issuing any bill of exchange or promissory note having the amount thereof expressed in guineas, or in a numerical figure or figures denoting the amount thereof in pounds sterling, appearing visible in the substance of the paper upon which the same shall be written or printed, nor shall prevent any person from making, using, or selling any paper having waving or curved lines or any other devices in the nature of watermarks visible in the substance of the paper, not being bar lines or laying wire lines, provided the same are not so contrived as to form the groundwork or texture of the paper, or to resemble the waving or curved laying wire lines or bar lines or the watermarks of the paper used by the governor and company of the banks of England and Ireland respectively.

Proviso as to paper used for bills of exchange, &c.

Framed on the 1 Will. 4, c. 66, s. 14, and extended to Ireland.

16. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), shall engrave or in anywise make upon

Engraving or having any plate, &c. for making notes of

bank of England or Ireland, or other banks, or having such plate, &c., or uttering or having paper upon which a blank bank note, &c. shall be printed.

any plate whatsoever, or upon any wood, stone, or other material, any promissory note, bill of exchange, [or bank post bill,] or part of a promissory note (*a*), bill of exchange, [or bank post bill,] purporting to be a bank note, bank bill of exchange, [or bank post bill] of the governor and company of the bank of England or of the governor and company of the bank of Ireland, or of any other body corporate, company, or person carrying on the business of bankers, or to be a blank bank note, blank promissory note, blank bank bill of exchange, or blank bank post bill of the governor and company of the bank of England or of the governor and company of the bank of Ireland, or of any such other body corporate, company, or person as aforesaid, or to be a part of a bank note, promissory note, bank bill of exchange, or bank post bill of the governor and company of the bank of England or of the governor and company of the bank of Ireland, or of any such other body corporate, company, or person as aforesaid, or any [name,] word, [or character] resembling or apparently intended to resemble any subscription to any bill of exchange or promissory note issued by the governor and company of the bank of England or the governor and company of the bank of Ireland, or by any such other body corporate, company, or person as aforesaid, or shall use any such plate, wood, stone, or other material, or any other instrument or device, for the making or printing any bank note, bank bill of exchange, or bank post bill, or blank bank note, blank bank bill of exchange, or blank bank post bill, or part of a bank note,

(*a*) Engraving of the ornamental border of a bank note is within this provision. *Reg. v. Keith*, Deara. C. C. 486; 24 L. J. (N. S.) M. C. 110.

bank bill of exchange, or bank post bill, or knowingly have in his custody or possession any such plate, wood, stone, or other material, or any such instrument or device, or shall knowingly offer, utter, dispose of, or put off, or have in his custody or possession, any paper upon which any blank bank note, blank bank bill of exchange, or blank bank post bill of the governor and company of the bank of England or of the governor and company of the bank of Ireland, or of any such other body corporate, company, or person as aforesaid, or part of a bank note, bank bill of exchange, or bank post bill, or any [name,] word, [or character] resembling or apparently intended to resemble any such subscription, shall be made or printed, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding fourteen years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Framed on the 1 Will. 4, c. 66, ss. 15, 18; 1 Geo. 4, c. 92, s. 1; and the Irish Act, 39 Geo. 3, c. 63, s. 4; and those provisions assimilated. As to imprisonment and solitary confinement, see *post*, s. 52.

17. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), shall engrave or in anywise make upon any plate whatsoever, or upon any wood, stone, or other material, any word, number, figure, [device,] character, or ornament the impression taken from which shall resemble or apparently be intended to resemble any part of a bank note, bank bill of exchange, or bank post bill of the governor and com-

Engraving on a plate, &c. any word, number or device resembling part of a bank note or bill, or using or having any such plate, &c., or uttering or having any paper on which any

such word,  
&c. is im-  
pressed.

pany of the bank of England or of the governor and company of the bank of Ireland, or of any other body corporate, company, or person carrying on the business of bankers, or shall use, or knowingly have in his custody or possession, any such plate, wood, stone, or other material, or any other instrument or device for the [impressing or] making upon any paper or other material any word, number, figure, character, or ornament which shall resemble or apparently be intended to resemble any part of a bank note, bank bill of exchange, or bank post bill of the governor and company of the bank of England or of the governor and company of the bank of Ireland, or of any such other body corporate, company, or person as aforesaid, or shall knowingly offer, utter, dispose of, or put off, or have in his custody or possession, any paper or other material upon which there shall be an impression of any such matter as aforesaid, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding fourteen years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Framed on the 1 Will. 4, c. 66, s. 16, and 1 Geo. 4, c. 92, s. 2, and extended to Ireland. As to imprisonment and solitary confinement, see *post*, ss. 52, 53.

Making or having mould for making paper with the name of any banker, or making or having such paper.

18. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), shall make or use any frame, mould, or instrument for the manufacture of paper, with the name or firm of any body corporate, company, or person carrying on the business of bankers (other



than and except the banks of England and Ireland respectively), appearing visible in the substance of the paper, or knowingly have in his custody or possession any such frame, mould, or instrument, or make, use, sell, expose to sale, utter, or dispose of, or knowingly have in his custody or possession, any paper in the substance of which the name or firm of any such body corporate, company, or person shall appear visible, or [by any art or contrivance] cause the name or firm of any such body corporate, company, or person to appear visible in the substance of the paper upon which the same shall be written or printed, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding fourteen years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Framed on the 41 Geo. 3, c. 57, ss. 1, 2, 3. And see 11 Geo. 4 & 1 Will. 4, c. 66, s. 17. As to imprisonment and solitary confinement, see *post*, ss. 52, 53.

19. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), shall engrave or in anywise make upon any plate whatsoever, or upon any wood, stone, or other material, any bill of exchange, promissory note, undertaking, or order for payment of money, or any part of any bill of exchange, promissory note, undertaking, or order for payment of money, in whatsoever language the same may be expressed, and whether the same shall or shall not be or be intended to be under seal, purporting to be the bill, note, undertaking, or order, or part of the bill,

Engraving plates for foreign bills or notes, or using or having such plates, or uttering paper on which any part of any such bill or note is printed.

note, undertaking, or order of any foreign prince or state, or of any minister or officer in the service of any foreign prince or state, or of any body corporate or body of the like nature, constituted or recognized by any foreign prince or state, or of any person or company of persons, resident in any country not under the dominion of her majesty, or shall use, or knowingly have in his custody or possession, any plate, stone, wood, or other material upon which any such foreign bill, note, undertaking, or order, or any part thereof, shall be engraved or made, or shall knowingly offer, utter, dispose of, or put off, or have in his custody or possession, any paper upon which any part of any such foreign bill, note, undertaking, or order shall be made or printed, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding fourteen years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Framed on the 1 Will. 4, c. 66, s. 19, and the 43 Geo. 3, c. 119, ss. 1, 2. As to imprisonment and solitary confinement, see *post*, ss. 52, 53.

As to forging deeds, wills, bills of exchange, &c. :

Forging  
deeds,  
bonds, &c.

20. Whosoever, with intent to defraud, shall forge or alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or altered, any deed, or any bond or writing obligatory, [or any assignment at law or in equity of any such bond or writing obligatory, or shall forge any name,

handwriting, or signature purporting to be the name, handwriting, or signature of a witness attesting the execution of any deed, bond, or writing obligatory, or shall offer, utter, dispose of, or put off any deed, bond, or writing obligatory having thereon any such forged name, handwriting, or signature, knowing the same to be forged,] shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Framed on the 11 Geo. 4 & 1 Will. 4, c. 66, part of sect. 10, and extended to Ireland. As to imprisonment and solitary confinement, see *post*, ss. 52, 53.

21. Whosoever, with intent to defraud, shall forge or alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or altered, any will, testament, codicil, or testamentary instrument, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Forging wills.

Framed on the 11 Geo. 4 & 1 Will. 4, c. 66, part of sect. 3; and on the Irish Act, 3 Geo. 2, c. 4, s. 1; and those provisions assimilated. As to imprisonment and solitary confinement, see *post*, ss. 52, 53.

22. Whosoever shall forge or alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or altered, any bill of exchange, or any acceptance, indorsement, or assignment of any bill

Forging bills of exchange or promissory notes.

of exchange, or any promissory note for the payment of money, or any indorsement or assignment of any such promissory note, with intent to defraud, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Framed on the 11 Geo. 4 & 1 Will. 4, c. 66, part of sect. 3; and on the Irish Act, 3 Geo. 2, c. 4, s. 1; and those provisions assimilated. As to imprisonment and solitary confinement, see *post*, ss. 52, 53.

Forging  
orders, re-  
ceipts, &c.  
for money,  
goods, &c.

23. Whosoever shall forge or alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or altered, any undertaking, warrant, order (*a*), [authority,] or request for the payment of money, or for the delivery or transfer of any goods or chattels, or of any note, bill, or other security for the payment of money, [or for procuring or giving credit, or any indorsement on or assignment of any such undertaking, warrant, order (*b*), authority, or request,] or any accountable receipt (*c*), acquittance, or receipt for money or for goods, or for any note, bill, or other security for the payment of money, [or any indorsement on or assignment of any such accountable receipt,] with intent, in any of the cases aforesaid, to defraud,

(*a*) As to what amounts to a warrant or order, see *Reg. v. Dawson*, 2 Den. C. C. 75; 20 L. J. (N. S.) M. C. 102; and see *Reg. v. Williams*, 2 Den. C. C. 61; 20 L. J. (N. S.) M. C. 106; *Reg. v. Illidge*, 18 L. J. (N. S.) M. C. 179.

(*b*) The indorsement of a shareholder on a railway dividend warrant held the indorsement of a warrant or order. *Reg. v. Antey*, 26 L. J. (N. S.) M. C. 190.

(*c*) A pawnbroker's duplicate is an accountable receipt. *Reg. v. Fitchie*, 1 Dears. & B. 175; 26 L. J. (N. S.) M. C. 90.

shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Framed on the 11 Geo. 4 & 1 Will. 4, c. 66, parts of ss. 3, 10; and on the Irish Acts, 3 Geo. 2, c. 4, s. 1, and 39 Geo. 3, c. 63, s. 1; and those provisions assimilated. As to imprisonment and solitary confinement, see *post*, ss. 52, 53. A person producing a forged receipt, purporting to be a receipt for parochial rates due from A., for the purpose of inducing the prosecutor to send money to A. as a responsible person, is within this provision, for it is not necessary that money should be obtained directly upon it, or by the utterer at all. *Reg. v. Ion*, 2 Den. C. C. 475; 21 L. J. (N. S.) M. C. 166.

24. [Whosoever, with intent to defraud, shall draw, make, sign, accept, or indorse any bill of exchange or promissory note, or any undertaking, warrant, order, authority, or request, for the payment of money, or for the delivery or transfer of goods or chattels, or of any bill, note, or other security for money, by procuration or otherwise, for, in the name, or on the account of any other person, without lawful authority or excuse, or shall offer, utter, dispose of, or put off any such bill, note, undertaking, warrant, order, authority, or request so drawn, made, signed, accepted, or indorsed by procuration or otherwise, without lawful authority or excuse, as aforesaid, knowing the same to have been so drawn, made, signed, accepted, or indorsed as aforesaid, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding fourteen years and not

Any person making or accepting any bill, note, &c. by procuration, without lawful authority, or uttering any such bill, note, &c. so made or accepted, with intent to defraud, to be guilty of felony.

less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.]

This provision is new. As to imprisonment and solitary confinement, see *post*, ss. 52, 53.

Obliterating  
crossings on  
cheques.

**25.** Whenever any cheque or draft on any banker shall be crossed with the name of a banker, or with two transverse lines with the words “and company,” or any abbreviation thereof, whosoever shall obliterate, add to, or alter any such crossing, or shall offer, utter, dispose of, or put off any cheque or draft whereon any such obliteration, addition, or alteration has been made, knowing the same to have been made, with intent, in any of the cases aforesaid, to defraud, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Framed on the 21 & 22 Vict. c. 79, s. 3. As to imprisonment and solitary confinement, see *post*, ss. 52, 53.

Forging  
debentures.

**26.** Whosoever shall fraudulently forge or alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or fraudulently altered, any debenture issued under any lawful authority whatsoever, either within her majesty's dominions or elsewhere, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding fourteen years and not less

than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Framed on the Irish Act, 37 Geo. 3. c. 54, s. 11, and extended to England and enlarged. As to imprisonment and solitary confinement, see *post*, ss. 52, 53.

As to forging records, process, instruments of evidence, &c. :

27. [Whosoever shall forge or fraudulently alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or fraudulently altered, any record, writ, return, panel, process, rule, order, warrant, interrogatory, deposition, affidavit, affirmation, recognizance, cognovit actionem or warrant of attorney, or any original document whatsoever of or belonging to any court of record, or any bill, petition, process, notice, rule, answer, pleading, interrogatory, deposition, affidavit, affirmation, report, order or decree, or any original document whatsoever of or belonging to any court of equity or court of admiralty in England or Ireland, or any document or writing, or any copy of any document or writing, used or intended to be used as evidence in any court in this section mentioned, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.]

Forging proceedings of courts of record or courts of equity.

As a general provision respecting the forgery of records, &c., this section is new. The offence was heretofore dealt with at common law or under particular acts. As to imprisonment and solitary confinement, see *post*, ss. 52, 53.

Forging  
copies or  
certificates  
of records,  
process of  
courts not of  
record, and  
using forged  
process.

28. Whosoever being the clerk of any court or other officer having the custody of the records of any court, or being the deputy of any such clerk or officer, shall utter any false copy or certificate of any record, knowing the same to be false; and whosoever, other than such clerk, officer or deputy shall sign or certify any copy or certificate of any record as such clerk, officer or deputy; and whosoever shall forge or fraudulently alter, or offer, utter, dispose of, or put off, knowing the same to be forged or fraudulently altered, any copy or certificate of any record, or shall offer, utter, dispose of, or put off any copy or certificate of any record having thereon any false or forged name, handwriting or signature, knowing the same to be false or forged; and whosoever shall forge the seal of any court of record, or shall forge or fraudulently alter any process of any court other than such courts as in the last preceding section mentioned, or shall serve or enforce any forged process of any court whatsoever, knowing the same to be forged, or shall deliver or cause to be delivered to any person any paper falsely purporting to be any such process (a), or a copy thereof, or to be any judgment, decree or order of any court of law or equity, or a copy thereof, knowing the same to be false, or shall act or profess to act under any such false process, knowing the same to be false, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

(a) See on this subject the case of *Reg. v. Evans*, 26 L. J. (N. S.) M. C. 92; 1 Dears. & Bell, 236; *Reg. v. Castle*, 27 L. J. (N. S.) M. C. 70; *Reg. v. Richmond*, 28 *id.* 188.



See the 7 & 8 Geo. 4, c. 28, s. 11; 9 Geo. 4, c. 54 (Irish Act), s. 2 (unrepealed); and 9 & 10 Vict. c. 95, s. 57 (unrepealed). As to imprisonment and solitary confinement, see *post*, ss. 52, 53.

29. [Whosoever shall forge or fraudulently alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or fraudulently altered, any instrument, whether written or printed, or partly written and partly printed, which is or shall be made evidence by any act passed or to be passed, and for which offence no punishment is herein provided, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.]

Forging instruments made evidence by any act of parliament.

This provision is new. As to imprisonment and solitary confinement, see *post*, ss. 52, 53.

As to forging court rolls :

30. Whosoever shall forge or alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or altered, any court roll or copy of any court roll, relating to any copyhold or customary estate, with intent to defraud, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life, or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Forging court rolls.

Framed on the 11 Geo. 4 & 1 Will. 4, c. 66, part of sect. 1, and extended to Ireland. As to imprisonment and solitary confinement, see *post*, ss. 52, 53.

As to forging registers of deeds :

Forgery as  
to the regis-  
try of deeds.

31. Whosoever shall forge or fraudulently alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or fraudulently altered, any memorial, affidavit, affirmation, entry, certificate, indorsement, document or writing, made or issued under the provisions of any act passed or hereafter to be passed for or relating to the registry of deeds, or shall forge or counterfeit the seal of or belonging to any office for the registry of deeds, or any stamp or impression of any such seal ; or shall forge any name, handwriting or signature purporting to be the name, handwriting or signature of any person to any such memorial, affidavit, affirmation, entry, certificate, indorsement, document or writing which shall be required or directed to be signed by or by virtue of any act passed or to be passed, or shall offer, utter, dispose of, or put off any such memorial or other writing as in this section before mentioned, having thereon any such forged stamp or impression of any such seal, or any such forged name, handwriting or signature, knowing the same to be forged, shall be guilty of felony and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding fourteen years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Framed on the 2 & 3 Ann. c. 4, s. 19 ; 6 Ann. c. 35, s. 26 ; 7 Ann. c. 20, s. 15 ; 8 Geo. 2, c. 6, s. 31 ; and on the Irish Acts, 6 Ann. c. 2, s. 17 ; 8 Ann. c. 10, s. 4 ; 8 Geo. c. 13, s. 4 ; and 13 & 14 Vict. c. 72, s. 62 ; and those provisions assimilated. As to imprisonment and solitary confinement, see *post*, ss. 52, 53.

As to forging orders, &c. of justices of the peace

Forging

32. [Whosoever, with intent to defraud, sh

forge or alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or altered, any summons, conviction, order or warrant of any justice of the peace, or any recognizance purporting to have been entered into before any justice of the peace or other officer authorized to take the same, or any examination, deposition, affidavit, affirmation or solemn declaration, taken or made before any justice of the peace, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for the term of three years, or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.]

orders of justices, recognizances, affidavits, &c.

This provision is new.

As to forging the name of the accountant-general, &c.:

**33.** Whosoever, with intent to defraud, shall forge or alter any certificate, report, entry, indorsement, declaration of trust, note, direction, authority, instrument or writing made or purporting or appearing to be made by the accountant-general, or any other officer of the court of chancery in England or Ireland, [or by any judge or officer of the landed estates court in Ireland, or by any officer of any court in England or Ireland,] or by any cashier or other officer or clerk of the governor and company of the bank of England or Ireland, or the name, handwriting or signature of any such accountant-general, judge, cashier, officer or clerk as aforesaid, or shall offer, utter, dispose of, or put off any such certificate, report, entry, indorsement, declaration of trust, note, direc-

Forging name of accountant-general, &c. of court of chancery in England or Ireland, or of any judge of the landed estates court in Ireland.

tion, authority, instrument or writing, knowing the same to be forged or altered, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding fourteen years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Framed on the 12 Geo. 1, c. 32, s. 9, and extended to Ireland. As to imprisonment and solitary confinement, see *post*, ss. 52, 53.

As to falsely acknowledging recognizances, &c. :

Acknowledging recognizance, bail, cognovit, &c. in the name of another.

34. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), shall, in the name of any other person, acknowledge any recognizance or bail, or any cognovit actionem, or judgment, or any deed or other instrument, before any court, judge or other person lawfully authorized in that behalf, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Framed on the 1 Will. 4, c. 66, ss. 11, 26, and extended to Ireland. As to imprisonment and solitary confinement see *post*, ss. 52, 53.

As to forging marriage licences :

Forging or uttering marriage

35. Whosoever shall forge or [fraudulently] alter any licence of [or certificate for] marriage, or shall

offer, utter, dispose of, or put off any such licence [or certificate], knowing the same to be forged or [fraudulently] altered, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years, and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

licence or certificate.

Framed on the 11 Geo. 4 & 1 Will. 4, c. 66, part of sect. 20, and extended to Ireland. As to imprisonment and solitary confinement, see *post*, ss. 52, 53.

As to forging registers of births, marriages and deaths :

36. Whosoever shall unlawfully (*a*) destroy, deface or injure, or cause or permit to be destroyed, defaced or injured, any register of births, baptisms, marriages, deaths or burials which now is or hereafter shall be by law authorized or required to be kept in England or Ireland, or any part of any such register, or any certified copy of any such register, or any part thereof, or shall forge or fraudulently alter in any such register any entry relating to any birth, baptism, marriage, death or burial, or any part of any such register, or any certified copy of such register, or of any part thereof, or shall knowingly and unlawfully (*a*) insert or cause or permit to be inserted in any such register, or in any certified copy thereof, any false entry of any matter relating to any birth, baptism, marriage, death or burial, or shall knowingly and unlawfully give any

Forging registers of births, baptisms, marriages, deaths or burials.

(*a*) The words “knowingly” and “unlawfully” are substituted for “falsely” and “wilfully” in the former provisions.

false certificate relating to any birth, baptism, marriage, death or burial, or shall certify any writing to be a copy or extract from any such register, knowing such writing, or the part of such register whereof such copy or extract shall be so given, to be false in any material particular, or shall forge or counterfeit the seal of or belonging to any register office or burial board, or shall offer, utter, dispose of, or put off any such register, entry, certified copy, certificate or seal, knowing the same to be false, forged or altered, or shall offer, utter, dispose of, or put off any copy of any entry in any such register, knowing such entry to be false, forged or altered, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Framed on the 11 Geo. 4 & 1 Will. 4, c. 66, part of sect. 20; 6 & 7 Will. 4, c. 86, s. 43; 3 & 4 Vict. c. 92, s. 8 (unrepealed); 7 & 8 Vict. c. 81 (Irish Act), s. 75, and amended and assimilated. As to imprisonment and solitary confinement, see *post*, ss. 52, 53.

Making  
false entries  
in copies of  
register sent  
to registrar.

37. Whosoever shall knowingly and wilfully insert or cause or permit to be inserted in any copy of any register directed or required by law to be transmitted to any registrar or other officer any false entry of any matter relating to any baptism, marriage, or burial, or shall forge or alter, or shall [offer,] utter, [dispose of, or put off,] knowing the same to be forged or altered, any copy of any register so directed or required to be transmitted as aforesaid, or shall knowingly and wilfully sign or verify any copy of any register so directed or re-

quired to be transmitted as aforesaid, which copy shall be false in any part thereof, knowing the same to be false, [or shall unlawfully destroy, deface, or injure, or shall for any fraudulent purpose take from its place of deposit, or conceal,] any such copy of any register, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life, or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Framed on the 11 Geo. 4 & 1 Will. 4, c. 66, s. 22, and extended to Ireland. See 24 & 25 Vict. c. 95, s. 4, and the unrepealed section (21) of the 11 Geo. 4 & 1 Will. 4, c. 66, referred to in the note, *ante*, p. 9.

As to imprisonment and solitary confinement, see *post*, ss. 52, 53.

As to demanding property upon forged instruments :

38. Whosoever, with intent to defraud, shall demand, receive, or obtain, or cause or procure to be delivered or paid to any person, or endeavour to receive or obtain, or to cause or procure to be delivered or paid to any person, any chattel, money, security for money, or other property whatsoever, under, upon, or by virtue of any forged or altered instrument whatsoever, knowing the same to be forged or altered, or under, upon, or by virtue of any probate or letters of administration, knowing the will, testament, codicil, or testamentary writing on which such probate or letters of administration shall have been obtained to have been forged or altered, or knowing such probate or letters of administration to have been obtained by any false oath, affirmation, or affidavit, shall be guilty of felony, and being

Demanding  
property  
upon forged  
instruments.

convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding fourteen years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Framed from the Irish Act, 38 Geo. 3, c. 53, s. 2. As to imprisonment and solitary confinement, see *post*, ss. 52, 53.

As to other matters :

Forging any instrument, however designated, which is in law a will, bill of exchange, &c.

39. Where by this or by any other act any person is [or shall hereafter be] made liable to punishment for forging or altering, or for offering, uttering, disposing of, or putting off, knowing the same to be forged or altered, any instrument or writing designated in such act by any special name or description, and such instrument or writing, however designated, shall be in law a will, testament, codicil, or testamentary writing, [or a deed, bond, or writing obligatory,] or a bill of exchange, or a promissory note for the payment of money, or an indorsement on or assignment of a bill of exchange or promissory note for the payment of money, or an acceptance of a bill of exchange, or an undertaking, warrant, order, [authority or request,] for the payment of money, [or an indorsement on or assignment of an undertaking, warrant, order, authority, or request for the payment of money,] within the true intent and meaning of this act, in every such case the person forging or altering such instrument or writing, or offering, uttering, disposing of, or putting off such instrument or writing, knowing the same to be forged or altered, may be indicted as an offender against this act, and punished accordingly.

Framed on the 11 Geo. 4 & 1 Will. 4, c. 66, s. 4, and extended to Ireland.



40. Where the forging or altering any writing or matter whatsoever, or the offering, uttering, disposing of, or putting off any writing or matter whatsoever, knowing the same to be forged or altered, is in this act expressed to be an offence, if any person shall, in England or Ireland, forge or alter, or offer, utter, dispose of, or put off, knowing the same to be forged or altered, any such writing or matter in whatsoever place or country out of England and Ireland, whether under the dominion of her majesty or not, such writing or matter may purport to be made or may have been made, and in whatever language the same or any part thereof may be expressed, every such person, and every person aiding, abetting, or counselling such person, shall be deemed to be an offender within the meaning of this act, and shall be punishable thereby in the same manner as if the writing or matter had purported to be made or had been made in England or Ireland; and if any person shall in England or Ireland forge or alter, or offer, utter, dispose of, or put off, knowing the same to be forged or altered, any bill of exchange, or any promissory note for the payment of money, or any indorsement on or assignment of any bill of exchange or promissory note for the payment of money, or any acceptance of any bill of exchange, or any undertaking, warrant, order, [authority or request,] for the payment of money, [or for the delivery or transfer of any goods or security,] or any deed, bond, or writing obligatory for the payment of money (whether such deed, bond, or writing obligatory shall be made only for the payment of money, or for the payment of money together with some other purpose), [or any indorsement on or assignment of any

Forging, &c. in England or Ireland documents purporting to be made, or actually made, out of England and Ireland, forging, &c. in England or Ireland bills of exchange, &c. purporting to be payable out of England or Ireland.

such undertaking, warrant, order, authority, request, deed, bond, or writing obligatory,] in whatsoever place or country out of England and Ireland, whether under the dominion of her majesty or not, the money payable or secured by such bill, note, undertaking, warrant, order, [authority, request,] deed, bond, or writing obligatory may be or may purport to be payable, and in whatever language the same respectively or any part thereof may be expressed, and whether such bill, note, undertaking, warrant, order, [authority or request,] be or be not under seal, every such person, and every person aiding, abetting, or counselling such person, shall be deemed to be an offender within the meaning of this act, and shall be punishable thereby in the same manner as if the money had been payable or had purported to be payable in England or Ireland.

Framed on the 11 Geo. 4 & 1 Will. 4, c. 66, s. 30, and extended to Ireland.

Forgers, &c. may be tried in the county where they are apprehended or are in custody.

41. If any person shall commit any offence against this act, or shall commit any offence of forging or altering any matter whatsoever (*a*), or of offering, uttering, disposing of, or putting off any matter whatsoever, knowing the same to be forged or altered, whether the offence in any such case shall be indictable at common law, or by virtue of any act passed or to be passed, every such offender may be dealt with, indicted, tried, and punished, in any county or place in which he shall be apprehended

(*a*) Notwithstanding the words "any matter whatsoever," the offence of forgery can only be of some document or writing. See *Reg. v. Closs*, 1 Dears. & B. 460; 27 L. J. (N. S.) M. C. 54, and *Reg. v. Smith*, 27 L. J. (N. S.) M. C. 225. There must also be an intent to defraud: see *Reg. v. Hodgson*, 1 Dears. & B. 3; 25 L. J. (N. S.) M. C. 78.

or be in custody (*a*), in the same manner in all respects as if his offence had been actually committed in that county or place; and every accessory before or after the fact to any such offence, if the same be a felony, and every person aiding, abetting, or counselling the commission of any such offence, if the same be a misdemeanour, may be dealt with, indicted, tried and punished in any county or place in which (*b*) [he shall be apprehended or be in custody in the same manner in all respects as if his offence, and the offence of his principal, had been actually committed in such county or place.]

(*a*) Being in custody at the time of trial is sufficient.

(*b*) "In which the principal offender may be tried." 11 Geo. 4 & 1 Will. 4, c. 66, s. 24.

Framed on the 11 Geo. 4 & 1 Will. 4, c. 66, s. 24. See also generally as to the venue for the trial of accessories, 24 & 25 Vict. c. 94, s. 7, *ante*, p. 4.

42. In any indictment for forging, [altering, offering,] uttering, [disposing, or putting off any instrument it shall be sufficient to describe such instrument by any name or designation by which the same may be usually known, or by the purport thereof, without setting out any copy or fac-simile thereof, or otherwise describing the same or the value thereof.

Description of instrument in indictments for forgery.

Framed on the 14 & 15 Vict. c. 100, s. 5.

43. In any indictment for engraving or making the whole or any part of any instrument, matter, or thing whatsoever, or for using or having the unlawful [custody or] possession of any plate or other material upon which the whole or any part of any instrument, matter, or thing whatsoever shall have been engraved or made, or for having the unlawful [custody or] possession of any paper upon which

Description of instrument in indictments for engraving, &c.

the whole or any part of any instrument, matter, or thing whatsoever shall have been made or printed, it shall be sufficient to describe such instrument, matter, or thing by any name or designation by which the same may be usually known, without setting out any copy or fac-simile of the whole or any part of such instrument, matter, or thing.

Framed on the 14 & 15 Vict. c. 100, s. 6.

Intent to defraud particular persons need not be alleged or proved.

44. It shall be sufficient, in any indictment for forging, altering, uttering, offering, disposing of, or putting off any instrument whatsoever, where it shall be necessary to allege an intent to defraud, to allege that the party accused did the act with intent to defraud, without alleging an intent to defraud any particular person; and on the trial of any such offence it shall not be necessary to prove an intent to defraud any particular person, but it shall be sufficient to prove that the party accused did the act charged with an intent to defraud.

Framed on the 14 & 15 Vict. c. 100, s. 8. Nevertheless there must be an intent at the time of the forgery to defraud. A forgery of a certificate of the college of surgeons, with the general intent to induce a belief that the document was genuine, and that the defendant was a member of the college, and showing it to persons with that object, but without any intent to commit any particular fraud or specific wrong to any individual, does not constitute forgery, notwithstanding this provision. *Reg. v. Hodgson*, 1 Dears. & B. 3; 25 L. J. (N. S.) M. C. 78.

Interpretation as to criminal possession.

45. Where the having any matter in the custody or possession of any person is in this act expressed to be an offence, if any person shall have any such matter in his personal custody or possession, [or shall knowingly and wilfully have any such matter in the actual custody or possession of any other person,] or shall knowingly and wilfully have any

such matter in any dwelling house or other building, lodging, apartment, field, or other place, open or inclosed, whether belonging to or occupied by himself or not, and whether such matter shall be so had for his own use or for the use or benefit of another, every such person shall be deemed and taken to have such matter in his custody or possession, within the meaning of this act.

Framed on the 11 Geo. 4 & 1 Will. 4, c. 66, s. 28.

46. If it shall be made to appear, by information on oath or affirmation before a justice of the peace, that there is reasonable cause to believe that any person has in his custody or possession, without lawful authority or excuse, any note or bill of the governor and company of the bank of England or Ireland, or of any body corporate, company, or person carrying on the business of bankers, or any frame, mould, or implement for making paper in imitation of the paper used for such notes or bills, or any such paper, or any plate, wood, stone, or other material having thereon any words, forms, devices, or characters capable of producing or intended to produce the impression of any such note or bill, or any part thereof, or any tool, implement, or material used or employed or intended to be used or employed in or about any of the operations aforesaid, [or any forged security, document, or instrument whatsoever,] or any machinery, frame, mould, plate, die, seal, paper, or other matter or thing used or employed or intended to be used or employed in the forgery of any security, document, or instrument whatsoever, such justice may, if he think fit, grant a warrant to search for the same; and if the same shall be found upon such search, it

Search for paper or implements employed in any forgery, and for forged instruments.

shall be lawful to seize and carry the same before some justice of the county or place, to be by him disposed of according to law; and all such matters and things so seized as aforesaid shall by order of the court where any such offender shall be tried, or in case there shall be no such trial then by order of some justice of the peace, be defaced and destroyed or otherwise disposed of as such court or justice shall direct.

Framed on the Irish Acts, 38 Geo. 3, c. 53, s. 6, and 39 Geo. 3, c. 63, s. 6, and extended to England and enlarged.

Other punishments substituted for those of the 5 Eliz. c. 14, which have been adopted in other acts.

47. Whosoever shall, after the commencement of this act, be convicted of any offence which shall have been subjected by any act or acts to the same pains and penalties as are imposed by the act passed in the fifth year of the reign of Queen Elizabeth, intituled "An Act against Forgers of false Deeds and Writings," for any of the offences first enumerated in the said act, shall be guilty of felony, and shall, in lieu of such pains and penalties, be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding fourteen years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Framed on the 11 Geo. 4 & 1 Will. 4, c. 66, s. 23, and extended to Ireland. The statute recited (5 Eliz. c. 14), provided that every person convicted of any of the offences first enumerated in that act should pay to the party grieved his double costs and damages, and should forfeit to the crown the whole issues of his lands and tenements during his life, and should also suffer imprisonment during his life. By subsequent acts, persons for certain offences were in terms subjected to the same pains and penalties as were imposed by the act of Elizabeth. The 11 Geo. 4 & 1 Will. 4, c. 66, s. 23, repealed the act of Elizabeth, and substituted for the offences made punishable in that act, transportation for four-

teen or not less than seven years, or imprisonment for three years or not less than one year. The above section is therefore a substitution for the last-mentioned provision.

As to imprisonment and solitary confinement, see *post*, ss. 52, 53.

48. Where by any act now in force any person falsely making, forging, counterfeiting, erasing or altering any matter whatsoever, or uttering, publishing, offering, disposing of, putting away, or making use of any matter whatsoever, knowing the same to have been falsely made, forged, counterfeited, erased or altered, or any person demanding or endeavouring to receive or have any thing, or to do or cause to be done any act, upon or by virtue of any matter whatsoever, knowing such matter to have been falsely made, forged, counterfeited, erased or altered, would, according to the provisions contained in any such act, be guilty of felony, and would, before the passing of the act of the first year of king William the fourth, chapter sixty-six, have been liable to suffer death as a felon; or where by any act now in force any person falsely personating another, or falsely acknowledging any thing in the name of another, or falsely representing any other person than the real party to be such real party, or wilfully making a false entry in any book, account or document, or in any manner wilfully falsifying any part of any book, account or document, or wilfully making a transfer of any stock, annuity or fund, in the name of any person not being the owner thereof, or knowingly taking any false oath, or knowingly making any false affidavit or false affirmation, or demanding or receiving any money or other thing by virtue of any probate or letters of administration, knowing the will on which such probate shall have been

All forgeries which were capital before the 1 W. 4, c. 66, and are not otherwise punishable under this act, shall be punished with penal servitude for life, &c.

obtained to have been false or forged, or knowing such probate or letters of administration to have been obtained by means of any false oath or false affirmation, would, according to the provisions contained in any such act, be guilty of felony, and would before the passing of the said act of the first year of king William the fourth have been liable to suffer death as a felon; or where by any act now in force any person making or using, or knowingly having in his custody or possession, any frame, mould, or instrument for the making of paper, with certain words visible in the substance thereof, or any person making such paper, or causing certain words to appear visible in the substance of any paper, would, according to the provisions contained in any such act, be guilty of felony, and would before the passing of the said act of the first year of king William the fourth have been liable to suffer death as a felon; then, and in each of the several cases aforesaid, if any person shall after the commencement of this act be convicted of any such felony as is hereinbefore in this section mentioned, or of aiding, abetting, counselling, or procuring the commission thereof, and the same shall not be punishable under any of the other provisions of this act, every such person shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Framed on the 11 Geo. 4 & 1 Will. 4, c. 66, s. 1, and extended to Ireland. As to imprisonment and solitary confinement, see *post*, ss. 52, 53.



this act, every principal in the second degree (a), and every accessory before the fact shall be punishable in the same manner as the principal in the first degree is by this act punishable; and every accessory after the fact to any felony punishable under this act shall on conviction be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement; and every person who shall aid, abet, counsel or procure the commission of any misdemeanor punishable under this act shall be liable to be proceeded against, indicted and punished as a principal offender.

in the second degree and accessories. A bettors in misdemeanors.

(a) See the note to sect. 98 of the 24 & 25 Vict. c. 96, *ante*, p. 98.

Framed on the 11 Geo. 4 & 1 Will. 4, c. 66, s. 25. See the Accessories and Abettors Act, 24 & 25 Vict. c. 94, ss. 1, 2, 4, 8, and notes to those sections, *ante*, pp. 1, 5, from which it will be seen that this section is merged in the general provision of that act.

**50.** All indictable offences mentioned in this act which shall be committed within the jurisdiction of the admiralty of England or Ireland shall be deemed to be offences of the same nature and liable to the same punishments as if they had been committed upon the land in England or Ireland, and may be dealt with, inquired of, tried and determined in any county or place in England or Ireland in which the offender shall be apprehended or be in custody, in the same manner in all respects as if they had been actually committed in that county or place; and in any indictment for any such offence, or for being an accessory to such an offence, the venue in the margin shall be the same as if the offence had been committed in such county

Offences committed within the jurisdiction of the admiralty.

or place, and the offence shall be averred to have been committed on "the high seas;" provided that nothing herein contained shall alter or affect any of the laws relating to the government of her majesty's land or naval forces.

Framed on the 11 Geo. 4 & 1 Will. 4, c. 66, s. 27. See also the 7 & 8 Vict. c. 2 (unrepealed), which is thus extended to Ireland. So far as respects accessories, this provision is merged in the 24 & 25 Vict. c. 94, ss. 7, 9; *vide ante*, pp. 4, 5.

Fine and sureties for keeping the peace; in what cases.

51. [Whenever any person shall be convicted of a misdemeanor under this act it shall be lawful for the court, if it shall think fit, in addition to or in lieu of any of the punishments by this act authorized, to fine the offender, and to require him to enter into his own recognizances, and to find sureties, both or either, for keeping the peace and being of good behaviour; and in all cases of felonies in this act mentioned it shall be lawful for the court, if it shall think fit, to require the offender to enter into his own recognizances, and to find sureties, both or either, for keeping the peace, in addition to any of the punishments by this act authorized; provided that no person shall be imprisoned under this clause for not finding sureties for any period exceeding one year.]

Hard labour.

52. Whenever imprisonment, with or without hard labour, may be awarded for any offence under this act, the court may sentence the offender to be imprisoned, or to be imprisoned and kept to hard labour, in the common gaol or house of correction.

Solitary confinement.

53. Whenever solitary confinement may be awarded for any offence under this act, the court

may direct the offender to be kept in solitary confinement for any portion or portions of his imprisonment, or of his imprisonment with hard labour, not exceeding one month at any one time, and not exceeding three months in any one year.

This section follows the provisions of the 7 Will. 4 & 1 Vict. c. 90, s. 5.

**54.** The court before which any indictable misdemeanor against this act shall be prosecuted or tried may allow the costs of the prosecution in the same manner as in cases of felony; and every order for the payment of such costs shall be made out, and the sum of money mentioned therein paid and repaid, upon the same terms and in the same manner in all respects as in cases of felony.

The costs of the prosecution of misdemeanor against this act may be allowed.

See the note to sect. 121 of the 24 & 25 Vict. c. 96, *ante*, p. 118.

**55.** Nothing in this act contained shall extend to Scotland, except as otherwise hereinbefore expressly provided.

Act not to extend to Scotland.

**56.** This act shall commence and take effect on the first day of November, one thousand eight hundred and sixty-one.

Commencement of act.



24 & 25 VICT. CAP. 99.

*An Act to consolidate and amend the Statute Law of the United Kingdom against Offences relating to the Coin.* [6th August, 1861.]

Whereas it is expedient to consolidate and amend the statute law of the united kingdom against of-

fences relating to the coin : Be it therefore enacted by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows:—

Interpreta-  
tion of  
terms.  
Current  
gold and  
silver coin.

1. In the interpretation of and for the purposes of this act, the expression "the queen's current gold or silver coin" shall include any gold or silver coin coined in any of her majesty's mints [or] lawfully current, [by virtue of any proclamation or otherwise,] in any part of her majesty's dominions, whether within the united kingdom or otherwise; and the expression "the queen's copper coin" shall include any copper coin and any coin of bronze or mixed metal coined in any of her majesty's mints, [or] lawfully current, [by virtue of any proclamation or otherwise,] in any part of her majesty's said dominions; and the expression "false or counterfeit coin resembling or apparently intended to resemble or pass for any of the queen's current gold or silver coin" shall include any of the current coin which shall have been gilt, silvered, washed, coloured or cased over, or in any manner altered so as to resemble or be apparently intended to resemble or pass for any of the queen's current coin of a higher denomination; [and the expression "the queen's current coin" shall include any coin coined in any of her majesty's mints, or lawfully current, by virtue of any proclamation or otherwise, in any part of her majesty's said dominions, and whether made of gold, silver, copper, bronze or mixed metal;] and where the having any matter in the custody or possession of any person is mentioned in this act, it shall include not only the having of it by himself

Copper coin.

False or  
counterfeit  
coin.

Current  
coin.

What shall  
be posses-  
sion.

in his personal custody or possession, but [also the knowingly and wilfully having it in the actual custody or possession of any other person,] and also the knowingly and wilfully having it in any dwelling house or other building, lodging, apartment, field or other place, open or inclosed, whether belonging to or occupied by himself or not, and whether such matter shall be so had for his own use or benefit or for that of any other person.

Framed on the 2 & 3 Will. 4, c. 34, s. 21. See also the 22 & 23 Vict. c. 30 (unrepealed), which makes the penalties and provisions of the act 2 & 3 Will. 4, c. 34, relating to copper coin, applicable to any coin of bronze or mixed metals.

As to evidence of knowledge of possession, see *Reg. v. Weeks*, 30 L. J. (N. S.) M. C. 141.

**2.** Whosoever shall falsely make or counterfeit any coin resembling or apparently intended to resemble or pass for any of the queen's current gold or silver coin, shall, in England and Ireland, be guilty of felony, and in Scotland of a high crime and offence, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Counterfeit-  
ing the gold  
or silver  
coin.

Framed on the 2 & 3 Will. 4, c. 34, s. 3.

As to imprisonment and solitary confinement, see *post*, ss. 39, 40.

This offence cannot be tried at quarter sessions.

**3.** Whosoever shall gild or silver, or shall, with any wash or materials capable of producing the colour or appearance of gold or of silver, [or by any means whatsoever,] wash, case over, or colour any coin whatsoever resembling or apparently in-

Colouring  
counterfeit  
coin or any  
pieces of  
metal with  
intent to  
make them  
pass for gold

or silver  
coin.

tended to resemble or pass for any of the queen's current gold or silver coin; or shall gild or silver, or shall, with any wash or materials capable of producing the colour or appearance of gold or of silver, [or by any means whatsoever,] wash, case over, or colour any piece of silver or copper, or of coarse gold or coarse silver, or of any metal or mixture of metals respectively, being of a fit size and figure to be coined, and with intent that the same shall be coined into false and counterfeit coin resembling or apparently intended to resemble or pass for any of the queen's current gold or silver coin; or shall gild, or shall, with any wash or materials capable of producing the colour or appearance of gold, [or by any means whatsoever,] wash, case over, or colour any of the queen's current silver coin, or file or in any manner alter such coin, with intent to make the same resemble or pass for any of the queen's current gold coin; or shall gild or silver, or shall, with any wash or materials capable of producing the colour or appearance of gold or silver, [or by any means whatsoever,] wash, case over, or colour any of the queen's current copper coin, or file or in any manner alter such coin, with intent to make the same resemble or pass for any of the queen's current gold or silver coin, shall, in England and Ireland, be guilty of felony, and in Scotland of a high crime, and offence, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Colouring or  
altering  
genuine  
coin with  
intent to  
make it pass  
for a higher  
coin.

Framed on the 2 & 3 Will. 4, c. 34, s. 4.

As to imprisonment and solitary confinement, see *post*, ss. 39, 40.

This offence cannot be tried at quarter sessions.

4. Whosoever shall impair, diminish or lighten any of the queen's current gold or silver coin, with intent that the coin so impaired, diminished or lightened may pass for the queen's current gold or silver coin, shall, in England and Ireland, be guilty of felony, and in Scotland of a high crime and offence, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding fourteen years, and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Impairing the gold or silver coin, with intent, &c.

Framed on the 2 & 3 Will. 4, c. 34, s. 5.

As to imprisonment and solitary confinement, see *post*, ss. 39, 40.

This offence may be tried at quarter sessions.

5. [Whosoever shall unlawfully have in his custody or possession (a) any filings or clippings, or any gold or silver bullion, or any gold or silver in dust, solution or otherwise, which shall have been produced or obtained by impairing, diminishing or lightening any of the queen's current gold or silver coin, knowing the same to have been so produced or obtained, shall, in England and Ireland, be guilty of felony, and in Scotland of a high crime and offence, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years

Unlawful possession of filings or clippings of gold or silver coin.

(a) As to custody or possession, see *ante*, sect. 1.

and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.]

This provision is new.

As to imprisonment and solitary confinement, see *post*, ss. 39, 40.

This offence may be tried at quarter sessions.

Buying or selling, &c. counterfeit gold or silver coin for lower value than its denomination.

6. Whosoever, [without lawful authority or excuse (the proof whereof shall lie on the party accused),] shall buy, sell, receive, pay or put off, or offer to buy, sell, receive, pay or put off, any false or counterfeit coin resembling or apparently intended to resemble or pass for any of the queen's current gold or silver coin at or for a lower rate of value than the same imports or was [apparently intended to import,] shall, in England and Ireland, be guilty of felony, and in Scotland of a high crime and offence, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement (*a*); [and in any indictment for any such offence as in this section aforesaid it shall be sufficient to allege that the party accused did buy, sell, receive, pay or put off, or did offer to buy, sell, receive, pay or put off, the false or counterfeit coin at or for a lower rate of value than the same imports or was apparently intended to import, without alleging at or for what rate, price or value the same was bought, sold, re-

(*a*) As to imprisonment and solitary confinement, see *post*, ss. 39, 40.



eived, paid or put off, or offered to be bought, sold, received, paid or put off.]

Framed in part on the 2 & 3 Will. 4, c. 34, s. 6.  
This offence cannot be tried at quarter sessions.

7. Whosoever, [without lawful authority or excuse (the proof whereof shall lie on the party accused),] shall import or receive into the united kingdom from beyond the seas any false or counterfeit coin resembling or apparently intended to resemble or pass for any of the queen's current gold or silver coin, knowing the same to be false or counterfeit, shall, in England and Ireland, be guilty of felony, and in Scotland of a high crime and offence, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Importing counterfeit coin from beyond seas.

Framed on part of the 2 & 3 Will. 4, c. 34, s. 6.  
As to imprisonment and solitary confinement, see *post*, ss. 40.  
This offence cannot be tried at quarter sessions.

8. [Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), shall export or put on board any ship, vessel or boat for the purpose of being exported from the united kingdom, any false or counterfeit coin, resembling or apparently intended to resemble or pass for any of the queen's current coin, knowing the same to be false or counterfeit, shall, in England and Ireland, be guilty of a misdemeanor, and in Scotland of a crime and offence, and being convicted thereof shall be liable, at the discretion

Exporting counterfeit coin.

of the court, to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.]

This provision is new.

As to imprisonment and solitary confinement, see *post*, ss 39, 40.

This offence cannot be tried at quarter sessions.

Uttering counterfeit gold or silver coin.

9. Whosoever shall tender, utter, or put off any false or counterfeit coin resembling or apparently intended to resemble or pass for any of the queen's current gold or silver coin, knowing the same to be false or counterfeit, shall, in England and Ireland be guilty of a misdemeanor, and in Scotland of a crime and offence, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding one year, with or without hard labour, and with or without solitary confinement.

This section follows almost verbatim part of sect. 7 of 2 & 3 Will. 4, c. 34.

As to imprisonment and solitary confinement, see *post*, ss 39, 40.

This offence can be tried at quarter sessions.

Uttering accompanied by possession of other counterfeit coin, or followed by a second uttering.

10. Whosoever shall tender, utter, or put off any false or counterfeit coin resembling or apparently intended to resemble or pass for any of the queen's current gold or silver coin, knowing the same to be false or counterfeit (*b*), and shall, at the time of such tendering, uttering or putting off, have in his custody or possession (*c*), besides the false or counterfeit coin

(*a*) To offer is to utter and put off; and therefore putting down a counterfeit coin on a counter in payment for goods is an uttering and putting off. *Reg. v. Welch*, 2 Den. C. 78; 20 L. J. (N. S.) M. C. 101.

(*b*) Subsequent utterings of counterfeit coins of different denomination are evidence to prove the guilty knowledge. *Reg. v. Foster*, Dears. C. C. 456; 24 L. J., M. C. 134.

(*c*) As to custody or possession, see *ante*, sect. 1.

so tendered, uttered or put off, any other piece of false or counterfeit coin resembling or apparently intended to resemble or pass for any of the queen's current gold or silver coin, or shall, either on the day of such tendering, uttering or putting off, or within the space of ten days then next ensuing, tender, utter or put off, any false or counterfeit coin resembling or apparently intended to resemble or pass for any of the queen's current gold or silver coin, knowing the same to be false or counterfeit, shall, in England and Ireland, be guilty of a misdemeanor, and in Scotland of a crime and offence, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

This section follows almost verbatim the latter part of sect. 7 of the 2 & 3 Will. 4, c. 34. See the note to sect. 35, *post*.

As to imprisonment and solitary confinement, see *post*, ss. 39, 40.

This offence can be tried at quarter sessions.

11. Whosoever shall have in his custody or possession (a) three or more pieces of false or counterfeit coin resembling or apparently intended to resemble or pass for any of the queen's current gold or silver coin, knowing the same to be false or counterfeit, and with intent to utter or put off the same [or any of them,] shall, in England and Ireland, be guilty of a misdemeanor, and in Scotland of a crime and offence, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for the term of

Having three or more pieces of counterfeit gold or silver coin in possession, &c., with intent, &c.

(a) As to custody or possession, see *ante*, sect. 1.

three years, or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Framed on the 2 & 3 Will. 4, c. 34, part of sect. 8. The mere fact of having in possession a quantity of counterfeit coin wrapped in separate paper is some evidence of the guilty knowledge and of the intent to utter: *Reg. v. Jarvis*, Dears. C. C. 552; 25 L. J. (N. S.) M. C. 30.

As to imprisonment and solitary confinement, see *post*, ss. 39, 40.

This offence can be tried at quarter sessions.

Every second offence of uttering, &c. after a previous conviction shall be felony.

12. Whosoever, having been convicted, [either before or after the passing of this act,] of any such misdemeanor or crime and offence as in any of the last three preceding sections mentioned, [or of any felony or high crime and offence against this or any former act relating to the coin,] shall afterwards commit any of the misdemeanors or crimes and offences in any of the said sections mentioned, shall, in England and Ireland, be guilty of felony, and in Scotland of a high crime and offence, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Framed on the 2 & 3 Will. 4, c. 34, ss. 7, 8, which are extended, for under those sections a person could not be convicted of *uttering* after a previous conviction for having *possession* of counterfeit coin, or vice versâ.

As to imprisonment and solitary confinement, see *post*, ss. 39, 40.

This offence cannot, it seems, be tried at quarter sessions, that court not having jurisdiction to try persons for any felony which when committed by a person not previously convicted of *felony*, is punishable with penal servitude for life, (see the 5 & 6 Vict. c. 38, and the subsequent statutes substituting penal servitude for transportation). Here the previous offence is a misdemeanor, not a felony.

13. [Whosoever shall, with intent to defraud, tender, utter, or put off as or for any of the queen's current gold or silver coin, any coin not being such current gold or silver coin, or any medal or piece of metal or mixed metals, resembling in size, figure and colour the current coin as or for which the same shall be so tendered, uttered, or put off, such coin, medal, or piece of metal or mixed metals so tendered, uttered, or put off being of less value than the current coin as or for which the same shall be so tendered, uttered, or put off, shall, in England and Ireland, be guilty of a misdemeanor, and in Scotland of a crime and offence, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding one year, with or without hard labour, and with or without solitary confinement.]

Uttering foreign coin, medals, &c. as current coin, with intent to defraud.

This provision is new.

As to imprisonment and solitary confinement, see *post*, ss. 39, 40.

This offence can be tried at quarter sessions.

14. Whosoever shall falsely make or counterfeit any coin resembling or apparently intended to resemble or pass for any of the queen's current copper coin; and whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), shall knowingly make or mend, or begin or proceed to make or mend, or buy or sell, or have in his custody or possession (a), any instrument, tool, or engine adapted and intended for the counterfeiting any of the queen's current copper coin; or shall buy, sell, receive, pay, or put off, or offer to buy, sell, receive, pay, or put off, any

Counterfeiting, &c. copper coin.

(a) As to custody or possession, see *ante*, sect. 1.

false or counterfeit coin resembling or apparently intended to resemble or pass for any of the queen's current copper coin, at or for a lower rate or value than the same imports or was [apparently intended to import (*a*),] shall, in England and Ireland, be guilty of felony, and in Scotland of a high crime and offence, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

(*a*) "Coined or counterfeited for," 2 Will. 4, c. 34, s. 12.

Framed on the 2 & 3 Will. 4, c. 34, part of sect. 12.

As to imprisonment and solitary confinement, see *post*, ss. 39, 40.

This offence can be tried at quarter sessions.

Uttering base  
copper coin.

15. Whosoever shall tender, utter, or put off any false or counterfeit coin resembling or apparently intended to resemble or pass for any of the queen's current copper coin, knowing the same to be false or counterfeit, or shall have in his custody or possession (*b*) three or more pieces of false or counterfeit coin resembling or apparently intended to resemble or pass for any of the queen's current copper coin, knowing the same to be false or counterfeit, and with intent to utter or put off the same [or any of them,] shall, in England and Ireland, be guilty of a misdemeanor, and in Scotland of a crime and offence, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding one year, with

(*b*) As to custody or possession, see *ante*, sect. 1.

or without hard labour, and with or without solitary confinement.

Framed on the 2 & 3 Will. 4, c. 34, part of s. 12.

As to imprisonment and solitary confinement, see *post*, ss. 39, 40.

This offence can be tried at quarter sessions.

16. Whosoever shall deface any of the queen's current gold, silver, or copper coin, by stamping thereon any names or words, whether such coin shall or shall not be thereby diminished or lightened, shall, in England and Ireland, be guilty of a misdemeanor, and in Scotland of a crime and offence, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding one year, with or without hard labour.

Defacing the coin by stamping words thereon.

Framed on the 16 & 17 Vict. c. 102, s. 1.

As to imprisonment, see *post*, s. 39.

17. No tender of payment in money made in any gold, silver, or copper coin so defaced by stamping as in the last preceding section mentioned shall be allowed to be a legal tender; and whosoever shall tender, utter, or put off any coin so defaced shall, on conviction thereof before two justices, be liable to forfeit and pay any sum not exceeding forty shillings: provided that it shall not be lawful for any person to proceed for any such last-mentioned penalty without the consent, in England or Ireland, of her majesty's attorney-general for England or Ireland respectively, or in Scotland of the lord advocate.

Tender of coin so defaced not to be a legal tender, and penalty for uttering the same.

Framed on the 16 & 17 Vict. c. 102, s. 2.

As to the procedure before justices, see *post*, s. 41.

An appeal lies to one of the superior courts, if either party is dissatisfied with the determination of the justices as being erroneous in point of law: 20 & 21 Vict. c. 43.

Counterfeit-  
ing foreign  
gold and  
silver coin.

18. Whosoever shall make or counterfeit any kind of coin not being the queen's current gold or silver coin, but resembling or apparently intended to resemble or pass for any gold or silver coin of any foreign prince, state, or country, shall, in England and Ireland, be guilty of felony, and in Scotland of a high crime and offence, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Framed on the 37 Geo. 3, c. 126, s. 2, and extended to Ireland.

As to imprisonment and hard labour, see *post*, ss. 39, 40.  
This offence can be tried at quarter sessions.

Bringing  
such counter-  
feit coin into  
the united  
kingdom.

19. Whosoever, [without lawful authority or excuse (the proof whereof shall lie on the party accused),] shall bring [or receive] into the united kingdom any such false or counterfeit coin resembling or apparently intended to resemble or pass for any gold or silver coin of any foreign prince, state, or country, knowing the same to be false or counterfeit, shall, in England and Ireland, be guilty of felony, and in Scotland of a high crime and offence, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Framed on the 37 Geo. 3, c. 126, s. 3, and extended to Ireland.



As to imprisonment and solitary confinement, see *post*, ss. 39, 40.

This offence can be tried at quarter sessions.

20. Whosoever shall tender, utter, or put off any such false or counterfeit coin resembling or apparently intended to resemble or pass for any gold or silver coin of any foreign prince, state, or country, knowing the same to be false or counterfeit, shall, in England and Ireland, be guilty of a misdemeanor, and in Scotland of a crime and offence, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding six months, with or without hard labour.

Penalty for uttering such counterfeit coin.

Framed on the 37 Geo. 3, c. 126, part of s. 4.

As to imprisonment, see *post*, s. 39.

This offence can be tried at quarter sessions.

21. Whosoever, having been so convicted as in the last preceding section mentioned, shall afterwards commit the like offence of tendering, uttering, or putting off any such false or counterfeit coin as aforesaid, knowing the same to be false or counterfeit, shall, in England and Ireland, be guilty of a misdemeanor, and in Scotland of a crime and offence, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement; and whosoever, having been so convicted of a second offence, shall afterwards commit the like offence of tendering, uttering, or putting off any such false or counterfeit coin as aforesaid, knowing the same to be false or counterfeit, shall, in England and Ireland, be guilty of felony, and in Scotland of a high crime and offence, and being convicted

Second offence of uttering counterfeit foreign coin.

Third offence.

thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Framed on the 37 Geo. 3, c. 126, part of s. 4.

As to imprisonment and solitary confinement, see *post*, ss. 39, 40.

The third offence cannot be tried at quarter sessions. See the note to s. 12, *ante*, p. 222.

Persons  
counterfeit-  
ing foreign  
coin other  
than gold and  
silver coin.

**22.** Whosoever shall falsely make or counterfeit any kind of coin not being the queen's current coin, but resembling or apparently intended to resemble or pass for any copper coin, or any other coin made of any metal or mixed metals of less value than the silver coin of any foreign prince, state, or country, shall, in England and Ireland, be guilty of a misdemeanor, and in Scotland of a crime and offence, and being convicted thereof shall be liable, at the discretion of the court, for the first offence to be imprisoned for any term not exceeding one year, and for the second offence to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Framed on the 43 Geo. 3, c. 139, s. 3.

As to imprisonment and solitary confinement, see *post*, ss. 39, 40.

These offences can be tried at quarter sessions.

Penalty on  
persons  
having  
more than  
five pieces of

**23.** Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), shall have in his custody or possession (a)

(a) As to custody or possession, see *ante*, sect. 1.

any greater number of pieces than five pieces of false or counterfeit coin resembling or apparently intended to resemble or pass for any gold or silver coin of any foreign prince, state, or country, or any such copper or other coin as in the last preceding section mentioned, shall, on conviction thereof before any justice of the peace, forfeit and lose all such false and counterfeit coin, which shall be cut in pieces and destroyed by order of such justice, and shall for every such offence forfeit and pay any sum of money not exceeding forty shillings nor less than ten shillings for every such piece of false and counterfeit coin which shall be found in the custody or possession (a) of such person, one moiety to the informer, and the other moiety to the poor of the parish where such offence shall be committed ; and in case any such penalty shall not be forthwith paid it shall be lawful for any such justice to commit the person who shall have been adjudged to pay the same to the common gaol or house of correction, there to be kept to hard labour for the space of three months, or until such penalty shall be paid.

such counterfeit foreign coin in their possession.

(a) As to custody or possession, see *ante*, sect. 1.

Framed on the 43 Geo. 3, c. 139, s. 6, and the 37 Geo. 3, c. 126, s. 6.

As to the procedure on summary convictions, see *post*, s. 41.

There is no appeal to the quarter sessions, although the conviction may be before one justice, and although an appeal is given in that case by the Larceny and Malicious Injuries Act, 24 & 25 Vict. cc. 96, 97, see *ante*, pp. 107, 164.

Either party may, however, appeal to one of the superior courts, if dissatisfied with the determination of the justices as being erroneous in point of law : 20 & 21 Vict. c. 43.

**24.** Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), shall knowingly make or mend, or begin or proceed to

Making, mending or having possession of any coining tools, felony.

make or mend, or buy or sell, or have in his custody or possession (*a*), any puncheon, counter puncheon, matrix, stamp, die, pattern, or mould, in or upon which there shall be made or impressed, or which will make or impress, or which shall be adapted and intended to make or impress, the figure, stamp, or apparent resemblance of both or either of the sides of any of the queen's current gold or silver coin, [or of any coin of any foreign prince, state, or country (*b*),] or any part or parts of both or either of such sides; or shall make or mend, or begin or proceed to make or mend, or shall buy or sell, or have in his custody or possession (*a*), any edger, edging [or other] tool, collar, instrument, or engine, adapted and intended for the marking of coin round the edges with letters, grainings, or other marks or figures apparently resembling those on the edges of any such coin as in this section aforesaid, knowing the same to be so adapted and intended as aforesaid; or shall make or mend, or begin or proceed to make or mend, or shall buy or sell, or have in his custody or possession (*a*), any press for coinage, or any cutting engine for cutting by force of a screw or of any other contrivance, round blanks out of gold, silver, or other metal [or mixture of metals, or any other machine,] knowing such press to be a press for coinage, or knowing such engine [or machine] to have been used or to be intended to be used for or in order to the false making or counter-

(*a*) As to custody or possession, see *ante*, sect. 1.

(*b*) These words have been introduced apparently, in reference to the case of *Reg. v. Roberts*, Dears. C. C. 539; 25 L. J. (N. S.) M. C. 17, although it was there held that to procure dies of foreign coin, with intent to make counterfeit foreign coin, (the offence provided for by sect. 18,) was an indictable misdemeanor, although not amounting to an *attempt* to commit the felony.

feiting of any such coin as in this section aforesaid, shall, in England and Ireland, be guilty of felony, and in Scotland of a high crime and offence, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,— or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Framed on the 2 & 3 Will. 4, c. 34, s. 10.

As to imprisonment and solitary confinement, see *post*, ss. 39, 40.

This offence cannot be tried at quarter sessions.

25. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), shall knowingly convey out of any of her majesty's mints any puncheon, counter puncheon, matrix, stamp, die, pattern, mould, edger, edging [or other] tool, collar, instrument, press, or engine used or employed in or about the coining of coin, or any useful part of any of the several matters aforesaid, or any coin, bullion, metal, or mixture of metals, shall, in England and Ireland, be guilty of felony, and in Scotland of a high crime and offence, and being convicted thereof shall be liable at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,— or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Conveying tools or monies out of the mint without authority, felony.

Framed on the 2 & 3 Will. 4, c. 34, s. 11.

As to imprisonment and solitary confinement, see *post*, ss. 39, 40.

This offence cannot be tried at quarter sessions.

26. Where any coin shall be tendered [as the

Coin suspected to be

diminished or counterfeit may be cut by any person to whom it is tendered.

Who shall bear the loss.

queen's current gold or silver coin] to any person who shall suspect the same to be diminished otherwise than by reasonable wearing, or to be counterfeit, it shall be lawful for such person to cut, break, [bend,] or deface such coin, and if any coin so cut, broken, [bent,] or defaced shall appear to be diminished otherwise than by reasonable wearing, or to be counterfeit, the person tendering the same shall bear the loss thereof; but if the same shall be of due weight, and shall appear to be lawful coin, the person cutting, breaking, [bending,] or defacing the same is hereby required to receive the same at the rate it was coined for; and if any dispute shall arise whether the coin so cut, broken, [bent,] or defaced be diminished in manner aforesaid, or counterfeit, it shall be heard and finally determined in a summary manner by any justice of the peace, who is hereby empowered to examine upon oath as well the parties as any other person, in order to the decision of such dispute; and the tellers at the receipt of her majesty's exchequer, and their deputies and clerks, and the receivers general of every branch of her majesty's revenue, are hereby required to cut, break, or deface, or cause to be cut, broken, or defaced every piece of counterfeit or unlawfully diminished gold or silver coin which shall be tendered to them in payment of any part of her majesty's revenue.

Framed on the 2 & 3 Will. 4, c. 34, s. 13.

Provision for the discovery and seizure of counterfeit coin and coining tools, for

27. If any person shall find or discover in any place whatever, or in the custody or possession (a) of any person having the same without lawful authority or excuse, any false or counterfeit coin,

(a) As to custody or possession, see *ante*, sect. 1.

resembling or apparently intended to resemble or pass for any of the queen's current gold, silver or copper coin, or any coin of any foreign prince, state, or country, or any instrument, tool, or engine whatsoever, adapted and intended for the counterfeiting of any such coin, [or any filings or clippings, or any gold or silver bullion, or any gold or silver in dust, solution, or otherwise, which shall have been produced or obtained by diminishing or lightening any of the queen's current gold or silver coin,] it shall be lawful for the person so finding or discovering and he is hereby required to seize the same, and to carry the same forthwith before some justice of the peace; and where it shall be proved, on the oath of a credible witness before any justice of the peace, that there is reasonable cause to suspect that any person has been concerned in counterfeiting the queen's current gold, silver, or copper coin, or any such foreign or other coin as in this act before mentioned, or has in his custody or possession (a) any such false or counterfeit coin, or any instrument, tool, or engine whatsoever adapted and intended for the making or counterfeiting of any such coin, [or any other machine used or intended to be used for making or counterfeiting any such coin, or any such filings, clippings, or bullion, or any such gold or silver in dust, solution, or otherwise] as aforesaid, it shall be lawful for any justice of the peace, by warrant under his hand, to cause any place whatsoever belonging to or in the occupation or under the control of such suspected person to be searched, either in the day or in the night, and if any such false or counterfeit coin, or any such instrument, tool, or engine, [or any such machine, or

securing them as evidence, and for ultimately disposing of them.

(a) As to custody or possession, see *ante*, sect. 1.

any such filings, clippings, or bullion, or any such gold or silver in dust, solution, or otherwise] as aforesaid, shall be found in any place so searched, to cause the same to be seized and carried forthwith before some justice of the peace; and whensoever any such false or counterfeit coin, or any such instrument, tool, or engine, [or any such machine, or any such filings, clippings, or bullion, or any such gold or silver in dust, solution or otherwise] as aforesaid, shall in any case whatsoever be seized and carried before a justice of the peace, he shall, if necessary, cause the same to be secured, for the purpose of being produced in evidence against any person who may be prosecuted for any offence against this act; and all such false and counterfeit coin, and all instruments, tools, and engines adapted and intended for the making or counterfeiting of coin, [and all such machines, and all such filings, clippings, and bullion, and all such gold and silver in dust, solution, or otherwise] as aforesaid, after they shall have been produced in evidence, or when they shall have been seized, and shall not be required to be produced in evidence, shall forthwith be delivered up to the officers of her majesty's mint, or to the solicitors of her majesty's treasury, or to any person authorized by them to receive the same.

Framed on the 2 & 3 Will. 4, c. 34, s. 14; 37 Geo. 3, c. 126, s. 7; 43 Geo. 3, c. 139, s. 7.

Venue.

28. [Where any person shall tender, utter or put off any false or counterfeit coin in one county or jurisdiction, and shall also tender, utter, or put off any other false or counterfeit coin in any other county or jurisdiction, either on the day of such first-mentioned tendering, uttering, or putting off,



or within the space of ten days next ensuing, or] where two or more persons, acting in concert in different counties or jurisdictions, shall commit any offence against this act, every such offender may be dealt with, indicted, tried, and punished, and the offence laid and charged to have been committed, in any one of the said counties or jurisdictions, in the same manner in all respects as if the offence had been actually and wholly committed within such one county or jurisdiction.

Framed in part on the 2 & 3 Will. 4, c. 34, s. 15.

29. Where, upon the trial of any person charged with any offence against this act, it shall be necessary to prove that any coin produced in evidence against such person is false or counterfeit, it shall not be necessary to prove the same to be false and counterfeit by the evidence of any moneyer, or other officer of her majesty's mint, but it shall be sufficient to prove the same to be false or counterfeit by the evidence of any other credible witness.

What shall be sufficient proof of coin being counterfeit.

Framed on the 2 & 3 Will. 4, c. 34, s. 17. The usual practice is, to call, as a witness, a silversmith of the town, where the trial takes place, who examines the coin in court in the presence of the jury.

30. Every offence of falsely making or counterfeiting [any] coin, [or of buying, selling, receiving, paying, tendering, uttering or putting off, or of offering to buy, sell, receive, pay, utter, or put off, any false or counterfeit coin,] against the provisions of this act, shall be deemed to be complete, although the coin so made or counterfeited, [or bought, sold, received, paid, tendered, uttered, or put off,] or offered to be bought, sold, received, paid, uttered,

Where the counterfeiting coin shall be complete.

or put off, shall not be in a fit state to be uttered, or the counterfeiting thereof shall not be finished or perfected.

Framed on the 2 & 3 Will. 4, c. 34, part of s. 3.

Any person may apprehend any person committing any indictable offence against this act.

**31.** [It shall be lawful for any person whatsoever to apprehend any person who shall be found committing any indictable offence, or any high crime and offence, or crime and offence, against this act, and to convey or deliver him to some peace officer, constable, or officer of police, in order to his being conveyed as soon as reasonably may be before a justice of the peace or some other proper officer, to be dealt with according to law.]

This provision is new.

No certiorari, &c.

**32.** No conviction for any offence punishable on summary conviction under this act shall be quashed for want of form, or be removed by certiorari into any of her majesty's superior courts of record; and no warrant of commitment shall be held void by reason of any defect therein, provided it be therein alleged that the party has been convicted, and there be a valid conviction to sustain the same.

Framed on the 37 Geo. 3, c. 126, s. 8, and the 43 Geo. 3, c. 139, s. 8. See the note to s. 23.

Venue in proceedings against persons acting under this act.

**33.** All actions and prosecutions to be commenced against any person for anything done in pursuance of this act shall, in England or Ireland, be laid and tried in the county where the fact was committed, and shall, in England, Ireland, or Scotland, be commenced within six months after the fact committed, and not otherwise; and notice in writing of such action and of the cause thereof shall be given

Notice of action.

to the defendant or defender one month at least before the commencement of the action ; and in any such action brought in England or Ireland the defendant may plead the general issue, and give this act and the special matter in evidence, at any trial to be had thereupon, and in Scotland the defender may insist on all relevant defences ; and no plaintiff or pursuer shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into court after such action brought, by or on behalf of the defendant or defender ; and if, in England or Ireland, a verdict shall pass for the defendant, or the plaintiff shall become nonsuit, or discontinue any such action after issue joined, or if, upon demurrer or otherwise, judgment shall be given against the plaintiff, or if, in Scotland, the verdict shall be for the defender, or if the pursuer shall abandon the action, or the court shall dismiss it as irrelevant or improperly laid, in every such case the defendant or defender shall recover his full costs as between attorney and client, and have the like remedy for the same as any defendant or defender has by law in other cases ; and though a verdict shall be given for the plaintiff or pursuer in any such action, such plaintiff or pursuer shall not have costs against the defendant or defender, unless the judge before whom the trial shall be shall certify his approbation of the action.

General  
issue.

Tender of  
amends, &c.

Framed on the 2 & 3 Will. 4, c. 34, s. 22. See also the 37 Geo. 3, c. 126, s. 9 ; and 43 Geo. 3, c. 139, s. 9.

**34.** All high crimes and offences, and crimes and offences, against this act, which may be committed in Scotland, shall be proceeded against and

Trial of  
offences in  
Scotland.

tried according to the rules and procedure of the criminal law of Scotland; and all proceedings by this act made competent before any justice or justices, and all and every the powers and authorities by this act given to or conferred upon any such justice or justices, shall, in Scotland, be competent before and may be exercised by any sheriff, magistrate, or justice of the peace.

Framed on the 2 & 3 Will. 4, c. 34, s. 15.

Punishment of principal in the second degree, and accessories.

**35.** In the case of every felony punishable under the act, every principal in the second degree, and every accessory before the fact, shall be punishable in the same manner as the principal in the first degree is by this act punishable; and every accessory after the fact to any felony punishable under this act shall be liable to be imprisoned for any term not exceeding two years, with or without hard labour.

Framed on the 2 & 3 Will. 4, c. 34, s. 18. See the Accessories and Abettors Act, 24 & 25 Vict. c. 94, ss. 1, 2, 4, and notes, *ante*, pp. 1, 3, from which it will be seen that this section is merged in the general provisions of that act. As to persons assisting in misdemeanors, see s. 8 of the same statute and note, *ante*, p. 5. Therefore all persons who are engaged in the common purpose of uttering counterfeit coin, although the uttering be by one only in the absence of the others, may be jointly convicted of uttering. *Reg. v. Greenwood*, 2 Den. C. C. 453; *S. C.* 21 L. J. (N. S.) M. C. 127, overruling some older cases.

Offences committed within the jurisdiction of the admiralty.

**36.** All indictable offences mentioned in this act which shall be committed within the jurisdiction of the admiralty of England or Ireland shall be deemed to be offences of the same nature and liable to the same punishments as if they had been committed upon the land in England or Ireland, and may be dealt with, inquired of, tried, and determined in any county or place in England or Ireland in which the

offender shall be apprehended or be in custody, in the same manner in all respects as if the same had been actually committed in that county or place, and in any indictment for any such offence, or for being accessory to any such offence, the venue in the margin shall be the same as if such offence had been committed in such county or place, and the offence itself shall be averred to have been committed "on the high seas;" [and where any of the crimes and offences, or high crimes and offences, mentioned in this act, shall be committed at sea, and the vessel in which the same shall be committed shall be registered in Scotland, or touch at any part thereof, the courts of criminal law of Scotland may inquire, try, and determine the same in the same manner as if such crime and offence, or high crime and offence, had been committed in Scotland;] provided that nothing herein contained shall alter or affect any of the laws relating to the government of her majesty's land or naval forces.

Framed on the 2 & 3 Will. 4, c. 34, s. 20. So far as respects accessories this provision is merged in the 24 & 25 Vict. c. 94, s. 9. See *ante*, pp. 5, 6.

37. [Where any person shall have been convicted of any offence against this act, or any former act relating to the coin, and shall afterwards be indicted for any offence against this act committed subsequent to such conviction, it shall be sufficient in any such indictment, after charging such subsequent offence, to state the substance and effect only (omitting the formal part) of the indictment and conviction for the previous offence; and a certificate containing the substance and effect only (omitting the formal part) of the indictment and conviction for the previous offence, purporting to

What shall be sufficient evidence of conviction for a previous offence.

be signed by the clerk of the court or other officer having or purporting to have the custody of the records of the court where the offender was first convicted, or by the deputy of such clerk or officer, shall, upon proof of the identity of the person of the offender, be sufficient evidence of the previous conviction, without proof of the signature or official character or authority of the person appearing to have signed the same, or of his custody or right to the custody of the records of the court, and for every such certificate a fee of six shillings and eightpence, and no more, shall be demanded or taken; and the proceedings upon any indictment for committing any offence after a previous conviction or convictions shall be as follows; (that is to say,) the offender shall, in the first instance, be arraigned upon so much only of the indictment as charges the subsequent offence, and if he plead not guilty, or if the court order a plea of not guilty to be entered on his behalf, the jury shall be charged, in the first instance, to inquire concerning such subsequent offence only; and if they find him guilty, or if on arraignment he plead guilty, he shall then, and not before, be asked whether he had been previously convicted as alleged in the indictment, and if he answer that he had been so previously convicted the court may proceed to sentence him accordingly, but if he deny that he had been so previously convicted, or stand mute of malice, or will not answer directly to such question, the jury shall then be charged to inquire concerning such previous conviction or convictions, and in such case it shall not be necessary to swear the jury again, but the oath already taken by them shall for all purposes be deemed to extend to such last-mentioned inquiry; provided that if upon the trial of any person for any

When the previous conviction is to be proved on the trial.

such subsequent offence such person shall give evidence of his good character, it shall be lawful for the prosecutor, in answer thereto, to give evidence of the conviction of such person for the previous offence or offences, before such verdict of guilty shall be returned, and the jury shall inquire concerning such previous conviction or convictions at the same time that they inquire concerning such subsequent offence.]

This section is new so far as offences against the coin are concerned.

The first part of this section is however framed on the 7 & 8 Geo. 4, c. 28, s. 11, which is thus extended to offences against the coin. Under the repealed statute, 2 Will. 4, c. 34, s. 9, a certified copy of the record was necessary. Now a certificate only will be sufficient. As to that part of the section which regulates the proceedings upon the indictment, see the note to sect. 116 of the Larceny Act, 24 & 25 Vict. c. 96, *ante*, p. 115. There is a difficulty, however, under this section in charging the subsequent offence as a *felony* without previously showing that which makes it a felony, namely, the previous conviction or misdemeanor. Moreover, arraiging the prisoner for the subsequent offence as for a *felony*, is equivalent to saying that the prisoner has been before convicted. The legislature perhaps relies upon the ignorance of the jury as to this distinction.

**38.** Whenever any person shall be convicted of any indictable misdemeanor punishable under this act the court may, if it shall think fit, in addition to or in lieu of any of the punishments by this act authorized, fine the offender, and require him to enter into his own recognizances, and to find sureties, both or either, for keeping the peace and doing of good behaviour; and in case of any felony punishable under this act, the court may, if it shall think fit, require the offender to enter into his own recognizances, and to find sureties, both or either, for keeping the peace, in addition to any punishment by this act authorized; provided that no per-

Fine and sureties for keeping the peace; in what cases.

son shall be imprisoned under this clause for not finding sureties for any period exceeding one year.

**Hard labour.** 39. Whenever imprisonment, with or without hard labour, may be awarded for any indictable offence under this act, the court may sentence the offender to be imprisoned, or to be imprisoned and kept to hard labour, in the common gaol or house of correction.

This section follows the 7 & 8 Geo. 4, c. 29, s. 4.

**Solitary confinement.**

40. Whenever solitary confinement may be awarded for any offence under this act, the court may direct the offender to be kept in solitary confinement for any portion or portions of his imprisonment, or of his imprisonment with hard labour, not exceeding one month at any one time, and not exceeding three months in any one year.

Framed on the 7 Will. 4 & 1 Vict. c. 90, s. 5.

**Summary proceedings in England may be under the 11 & 12 Vict. c. 43, and in Ireland under the 14 & 15 Vict. c. 93.**

41. [Every offence hereby made punishable on summary conviction may be prosecuted in England in the manner directed by the act of the session holden in the eleventh and twelfth years of queen Victoria, chapter forty-three, and may be prosecuted in Ireland before two or more justices of the peace or one metropolitan or stipendiary magistrate, in the manner directed by the act of the session holden in the fourteenth and fifteenth years of queen Victoria, chapter ninety-three, or in such other manner as may be directed by any act that may be passed for like purposes; and all provisions contained in the said acts shall be applicable to such prosecutions in the same manner as if they were incorporated in this act: provided that nothing

**Except in**



this act contained shall in any manner alter or affect any enactment relating to procedure in the case of any offence punishable on summary conviction within the city of London or the metropolitan police district, or the recovery or application of any penalty or forfeiture for any such offence.]

London and the metropolitan police district.

42. [In all prosecutions for any offence against this act in England, which shall be conducted under the direction of the solicitors of her majesty's treasury, the court before which such offence shall be prosecuted or tried shall allow the expenses of the prosecution in all respects as in cases of felony; and in all prosecutions for any such offence in England which shall not be so conducted it shall be lawful for such court, in case a conviction shall take place, but not otherwise, to allow the expenses of the prosecution in like manner; and every order for the payment of such costs shall be made out, and the sum of money mentioned therein paid and repaid, upon the same terms and in the same manner in all respects as in cases of felony.]

Costs of prosecutions.

The costs of prosecutions by direction of the treasury have been heretofore paid by the treasury.

43. This act shall commence and take effect on the first day of November, one thousand eight hundred and sixty-one.

Commencement of act.

—◆—  
24 & 25 VICT. CAP. 100.

*An Act to consolidate and amend the Statute Law of England and Ireland relating to Offences against the Person.*

[6th August, 1861.]

Whereas it is expedient to consolidate and amend

the statute law of England and Ireland relating to offences against the person: be it enacted by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows:

### *Homicide.*

#### **Murder.**

1. Whosoever shall be convicted of murder shall suffer death as a felon.

See the 9 Geo. 4, c. 31, s. 3, and the Irish Act, 10 Geo. 4, c. 34, s. 4.

This offence cannot be tried at quarter sessions.

#### **Sentence for murder.**

2. Upon every conviction for murder the court shall pronounce sentence of death, and the same may be carried into execution, and all other proceedings upon such sentence and in respect thereof may be had and taken, in the same manner in all respects as sentence of death might have been pronounced and carried into execution, and all other proceedings thereupon and in respect thereof might have been had and taken, before the passing of this act, upon a conviction for any other felony for which the prisoner might have been sentenced to suffer death as a felon.

Framed on the 6 & 7 Will. 4, c. 30, s. 2. The 4 Geo. 4, c. 48 (unrepealed), empowers the court to abstain from pronouncing sentence of death on persons convicted of any felonies except murder, and to record judgment of death instead. The 6 & 7 Will. 4, c. 30, s. 2, enacted that "sentence of death may be pronounced after convictions for murder in the same manner, and the judge shall have the same power in all respects as after convictions for other capital offences." By the 7 Will. 4 & 1 Vict. c. 77, s. 3, the Central Criminal Court was empowered to record sentence of death in any capital crime. This last provision is however now expressly repealed so far as relates to murder (see *ante*, p. 15), as well as the 6 &

Will. 4, c. 30. It seems, therefore, that now there is no power to any court to record sentence of death in any case of murder, as the section commences by saying the court shall pronounce sentence of death, and where judgment of death is recorded the sentence is not pronounced at all. It is to be regretted, however, that more precise terms were not used in a matter of so much importance.

3. The body of every person executed for murder shall be buried within the precincts of the prison in which he shall have been last confined after conviction, and the sentence of the court shall so direct.

Body to be buried in prison.

See the 2 & 3 Will. 4, c. 75, s. 16, and 4 & 5 Will. 4, c. 26, s. 2, both repealed.

4. All persons who shall conspire, confederate, and agree to murder any person, [whether he be a subject of her majesty or not, and whether he be within the queen's dominions or not,] and whosoever shall solicit, encourage, persuade, or endeavour to persuade, or shall propose to any person, to murder any other person, [whether he be a subject of her majesty or not, and whether he be within the queen's dominions or not,] shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not more than ten and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour.

Conspiring or soliciting to commit murder.

Framed on the Irish Act, 10 Geo. 4, c. 34, ss. 8, 9, and now extended to England. By that act, however, the offence was a capital felony, and as the bill passed the Lords and the committee of the House of Commons it was treated as a felony, although the committee of the House of Commons were equally divided upon the point. On the third reading misdemeanor was substituted for felony.

The words in brackets in this section, and in sect. 9, are inserted in reference to a question recently raised and discussed upon the occasion of a person being indicted at the

Central Criminal Court, under a special commission, as an accessory before the fact to the murder of one Batty, in Paris, by Orsini and others. It was objected that there was no proof of any murder having been committed within the meaning of the 9 Geo. 4, c. 31, s. 7, because (among other reasons) that the murder was committed in France, *by aliens, upon an alien*, and it was also objected that no evidence could be received of acts done by the prisoner on land out of the united kingdom, and out of the queen's dominions. The points were not decided, but reserved for the Court of Criminal Appeal. The prisoner, however, was acquitted: see *Reg. v. Bernard*, 1 Foster & Fin. 240.

This offence cannot be tried at quarter sessions: 5 & 6 Vict. c. 38.

Man-  
slaughter.

5. Whosoever shall be convicted of manslaughter shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, or to pay such fine as the court shall award, in addition to or without any such other discretionary punishment as aforesaid.

Framed on the 9 Geo. 4, c. 31, s. 9, and the Irish Act, 10 Geo. 4, c. 34, s. 12. Manslaughter is a felony at common law.

This offence cannot be tried at quarter sessions.

Indictment  
for murder  
or man-  
slaughter.

6. In any indictment for murder or manslaughter, [or for being an accessory to any murder or manslaughter,] it shall not be necessary to set forth the manner in which or the means by which the death of the deceased was caused, but it shall be sufficient in any indictment for murder to charge that the defendant did feloniously, wilfully, and of his malice aforethought kill and murder the deceased; and it shall be sufficient in any indictment for manslaughter to charge that the defendant did feloniously, kill and slay the deceased; [and it shall be sufficient in any indictment against any accessory to any murder or manslaughter to charge the

principal with the murder or manslaughter (as the case may be) in the manner hereinbefore specified, and then to charge the defendant as an accessory in the manner heretofore used and accustomed.]

Framed on the 14 & 15 Vict. c. 100, s. 4, previous to which it was necessary to allege the particular cause of death. The provision respecting the mode of charging accessories, only applies to accessories after the fact, as every accessory before the fact may be indicted in all respects as if he were a principal felon. See the 24 & 25 Vict. c. 94, s. 1, *ante*, p. 1.

It may be stated here that on an indictment for murder the accused may be convicted of manslaughter, or he may be convicted of an attempt to murder (see 14 & 15 Vict. c. 100, s. 9, *ante*, p. 62, note), or in case of child murder (under sect. 60, *post*) of concealment of birth.

7. No punishment or forfeiture shall be incurred by any person who shall kill another by misfortune or in his own defence, or in any other manner without felony. Excusable homicide.

This section follows the language of the 9 Geo. 4, c. 31, s. 10, and of the Irish Act, 10 Geo. 4, c. 34, s. 13.

8. Every offence which before the commencement of the act of the ninth year of king George the fourth, chapter thirty-one, would have amounted to petit treason, shall be deemed to be murder only, and no greater offence; and all persons guilty in respect thereof, whether as principals or as accessories, shall be dealt with, indicted, tried, and punished as principals and accessories in murder. Petit treason.

This section follows the 9 Geo. 4, c. 31, s. 2, and the corresponding Irish Act, 10 Geo. 4, c. 34, s. 3. Petit treason was the murder of a husband by his wife, or of a master by his servant, or of a bishop by his subordinate in the church, for being an act of treachery, or breach of allegiance, it came within the term treason, which is derived from the French *trahison*. See, as to accessories, the note to section 6.

9. Where any murder or manslaughter shall be committed on land out of the united kingdom, Murder or manslaughter abroad.

whether within the queen's dominions or without, [and whether the person killed were a subject of her majesty or not,] every offence committed by any subject of her majesty, in respect of any such case, [whether the same shall amount to the offence of murder or of manslaughter, or of being accessory to murder or manslaughter,] may be dealt with, inquired of, tried, determined, and punished in any county or place in England or Ireland in which such person shall be apprehended or be in custody, in the same manner in all respects as if such offence had been actually committed in that county or place; provided that nothing herein contained shall prevent any person from being tried in any place out of England or Ireland for any murder or manslaughter committed out of England or Ireland, in the same manner as such person might have been tried before the passing of this act.

Framed on the 9 Geo. 4, c. 31, s. 7, and the corresponding Irish Act, 10 Geo. 4, c. 34, s. 10. See, as to the new clauses introduced, the note to sect. 4, *ante*, p. 245. See also the 18 & 19 Vict. c. 91, s. 21, *ante*, p. 6 (note).

Provision for the trial of murder and manslaughter where the death or cause of death only happens in England or Ireland.

10. Where any person, being feloniously stricken, poisoned, or otherwise hurt upon the sea, or at any place out of England or Ireland, shall die of such stroke, poisoning, or hurt in England or Ireland, or, being feloniously stricken, poisoned, or otherwise hurt at any place in England or Ireland, shall die of such stroke, poisoning, or hurt upon the sea, or at any place out of England or Ireland, every offence committed in respect of any such case, whether the same shall amount to the offence of murder or of manslaughter, or of being accessory to murder or manslaughter, may be dealt with, inquired of, tried, determined, and punished in the

county or place in England or Ireland in which such death, stroke, poisoning, or hurt shall happen, in the same manner in all respects as if such offence had been wholly committed in that county or place.

Framed on the 9 Geo. 4, c. 31, s. 8, and the corresponding Irish Act, 10 Geo. 4, c. 34, s. 11. By the 23 & 24 Vict. c. 122, power is given to colonial legislatures to make a corresponding law.

This provision is intended to prevent a defeat of justice, which without it might arise from the difficulty of trial in cases of homicide, where the death occurs in a different place from that at which the blow causing it was given. The section, therefore, does not make a homicide cognizable in the courts of this country by reason of the death occurring here, unless it would have been so cognizable in case the death had ensued at the place where the blow was given. Therefore, where a foreigner inflicted a blow on another, in a foreign vessel on the high seas, and the person struck landed in England and died there, it was held that the homicide was not cognizable by the courts of this country, for if death had ensued in the foreign vessel no offence cognizable by the laws of this country would have taken place, and consequently the provision in the text was inapplicable. *Reg. v. Lewis*, 1 Dears. & B. 182; 26 L. J. (N. S.) M. C. 104. See also *R. v. Serva*, 1 Den. C. C. 104, and the judgment of *Alderson, B.*, in that case, printed in the Selections from his charges and other detached Papers, p. 273.

As to offences by British subjects in foreign vessels, see the 18 & 19 Vict. c. 91, s. 21, *ante*, p. 6 (note).

### *Attempts to murder.*

11. Whosoever shall administer to or cause [to be administered to or] to be taken by any person any poison or other destructive thing (a), or shall by any means whatsoever wound or cause any grievous bodily harm (b) to any person, with intent in any

Administering poison, or wounding with intent to murder.

(a) It is an offence within this section, although the poison was administered in a form that could not do injury. *Reg. v. Cluderay*, 19 L. J. (N. S.) M. C. 116; 1 Den. C. C. 514.

(b) Exposing a child to cold and wet, with intent that it should die, is not within this provision. *Reg. v. Gray*, 1 Dears. & B. 303; 26 L. J. (N. S.) M. C. 203. See the new provision in sect. 27, *post*.

of the cases aforesaid to commit murder, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years, or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Framed on the 7 Will. 4 & 1 Vict. c. 85, s. 2, by which, however, the offences here mentioned were capital. The bill, as originally drawn, retained the capital punishment for administering poison with intent to murder, but that part was struck out by the committee of the House of Commons.

As to imprisonment and solitary confinement, see *post*, ss. 69, 70.

This offence cannot be tried at quarter sessions.

By the 14 & 15 Vict. c. 19, s. 5 (unrepealed), "If upon the trial of any indictment for any felony, except murder or manslaughter, where the indictment shall allege that the defendant did cut, stab, or wound any person, the jury shall be satisfied that the defendant is guilty of the cutting, stabbing, or wounding charged in such indictment, but are not satisfied that the defendant is guilty of the felony charged in such indictment, then, and in every such case, the jury may acquit the defendant of such felony, and find him guilty of unlawfully cutting, stabbing, or wounding, and thereupon such defendant shall be liable to be punished in the same manner as if he had been convicted upon an indictment for the misdemeanor of cutting, stabbing, or wounding." One or more of several persons indicted may be found guilty of unlawfully wounding, although another or others are convicted of the graver offence charged. *Reg. v. Cunningham*, 28 L. J. (N. S.) M. C. 66.

Destroying  
or damaging  
a building  
with gun-  
powder, with  
intent to  
murder.

12. Whosoever, by the explosion of gunpowder or other explosive substance, shall destroy or damage any building with intent to commit murder, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Framed on the 9 & 10 Vict. c. 25, s. 2.



**13.** Whosoever shall set fire to any ship or vessel [or any part thereof, or any part of the tackle, apparel or furniture thereof, or any goods or chattels being therein,] or shall cast away or destroy any ship or vessel, with intent in any of such cases to commit murder, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Setting fire to or casting away a ship with intent to murder.

Framed on the 7 Will. 4 & 1 Vict. c. 89, s. 4, by which the offence was capital.

This offence cannot be tried at quarter sessions.

**14.** Whosoever shall attempt to administer to [or shall attempt to cause to be administered to or to be taken by] any person any poison or other destructive thing, or shall shoot at any person (a), or shall, by drawing a trigger or in any other manner, attempt to discharge any kind of loaded arms at any person, or shall attempt to drown, suffocate or strangle any person, with intent, in any of the cases aforesaid, to commit murder, shall, whether any bodily injury be effected or not, be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not ex-

Attempting to administer poison, or shooting or attempting to shoot or attempting to drown, &c., with intent to murder.

(a) If a person shoot at B. supposing he is A., and intending to murder A., he may, nevertheless, be convicted of shooting at B. with intent to murder B. *Reg. v. Smith, Dears. C. C. 559; 25 L. J., M. C. 29.*

ceeding two years, with or without hard labour, and with or without solitary confinement.

Framed on the 7 Will. 4 & 1 Vict. c. 85, s. 3.

As to imprisonment and solitary confinement, see *post*, ss. 69, 70.

As the actual administering, or wounding with the same intent, is now punishable in the same way, this and the following section might have been amalgamated with sect. 11. As to attempts to commit felony generally, see the 14 & 15 Vict. c. 100, s. 9 (unrepealed), *ante*, p. 62, note.

This offence cannot be tried at quarter sessions.

By any other means attempting to commit murder.

15. [Whosoever shall, by any means other than those specified in any of the preceding sections of this act, attempt to commit murder, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.]

This is new. See the observation in the note to the last section.

As to imprisonment and solitary confinement, see *post*, ss. 69, 70.

This offence cannot be tried at quarter sessions.

#### *Letters threatening to murder.*

Sending letters threatening to murder.

16. Whosoever shall maliciously send, deliver or utter, [or directly or indirectly cause to be received,] knowing the contents thereof, any letter or writing threatening to kill or murder any person, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding ten years and not less than three

years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Framed on the 4 Geo. 4, c. 54, part of s. 3, and 10 & 11 Vict. c. 66, s. 1.

As to imprisonment, solitary confinement, and whipping, see *post*, ss. 69, 70.

This offence is now triable at quarter sessions, but the committal ought to be to the assizes, for by the 5 & 6 Vict. c. 38, it was excluded from the jurisdiction of quarter sessions as an offence then punishable by transportation for life.

*Acts causing or tending to cause Danger to Life or bodily Harm.*

17. Whosoever shall [unlawfully and maliciously (a)] prevent or impede any person, being on board of or having quitted any ship or vessel which shall be in distress, or wrecked, stranded or cast on shore, in his endeavour to save his life, [or shall unlawfully and maliciously prevent or impede any person in his endeavour to save the life of any such person as in this section first aforesaid,] shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Impeding a person endeavouring to save himself from shipwreck.

(a) "By force," 7 Will. 4 & 1 Vict. c. 89, s. 7.

Framed on the 7 Will. 4 & 1 Vict. c. 89, s. 7.

As to imprisonment and solitary confinement, see *post*, ss. 69, 70.

This offence cannot be tried at quarter sessions.

18. Whosoever shall unlawfully and maliciously [by any means whatsoever] wound [or cause any

Shooting or attempting to shoot, or

wounding  
with intent  
to do grievous  
bodily  
harm.

grievous bodily harm to any person,] or shoot at any person, or, by drawing a trigger or in any other manner, attempt to discharge any kind of loaded arms at any person, with intent, in any of the cases aforesaid, to maim, disfigure, or disable any person, or to do some grievous bodily harm to any person, or with intent to resist or prevent the lawful apprehension or detainer of any person, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Framed on the 7 Will. 4 & 1 Vict. c. 85, s. 4. The offender may be convicted of unlawfully wounding under the 14 & 15 Vict. c. 19, s. 5, *ante*, p. 250 (note).

As to imprisonment and solitary confinement, see *post*, ss. 69, 70. A married woman, acting under the coercion of her husband, not herself personally inflicting any violence, cannot be convicted. *Reg. v. Smith*, 27 L. J. (N. S.) M. C. 204.

This offence cannot be tried at quarter sessions.

What shall  
constitute  
loaded arms.

19. [Any gun, pistol or other arms, which shall be loaded in the barrel with gunpowder or any other explosive substance, and ball, shot, slug or other destructive material, shall be deemed to be loaded arms within the meaning of this act, although the attempt to discharge the same may fail from want of proper priming or from any other cause.]

Inflicting  
bodily injury  
with or with-  
out weapon.

20. Whosoever shall unlawfully and maliciously wound or inflict any grievous bodily harm upon any other person, either with or without any weapon or instrument, shall be guilty of a misdemeanor, and being convicted thereof shall be

liable, at the discretion of the court, to be kept in penal servitude for the term of three years, or to be imprisoned for any term not exceeding two years, with or without hard labour.

Framed on the 14 & 15 Vict. c. 19, s. 4; and see the Irish Act, 10 Geo. 4, c. 34, s. 29.

As to imprisonment, see *post*, s. 69.

This offence can be tried at quarter sessions.

21. [Whosoever shall, by any means whatsoever, attempt to choke, suffocate or strangle any other person, or shall, by any means calculated to choke, suffocate or strangle, attempt to render any other person insensible, unconscious, or incapable of resistance, with intent in any of such cases thereby to enable himself or any other person to commit, or with intent in any of such cases thereby to assist any other person in committing, any indictable offence, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour.]

Attempting to choke, &c. in order to commit any indictable offence.

This is a new provision, intended to meet the offence of "garotting."

As to attempts generally, see 14 & 15 Vict. c. 100, s. 9, *ante*, p. 62, note to sect. 8, 24 & 25 Vict. c. 97, *ante*, p. 123.

As to imprisonment, see *post*, s. 69.

This offence cannot be tried at quarter sessions.

22. Whosoever shall unlawfully apply or administer to [or cause to be taken by,] or attempt to apply or administer to [or attempt to cause to be administered to or taken by,] any person any chloroform, laudanum, or other stupefying or overpowering drug, matter or thing, with intent in any

Using chloroform, &c. to commit any indictable offence.

of such cases thereby to enable himself or any other person to commit, or with intent in any of such cases thereby to assist any other person in committing, any indictable offence, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any other term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour.

Framed on the 14 & 15 Vict. c. 19, s. 3.

As to imprisonment, see *post*, s. 69.

This offence cannot be tried at quarter sessions.

Maliciously  
administer-  
ing poison,  
&c. so as to  
endanger life  
or inflict  
grievous  
bodily harm.

**23.** Whosoever shall unlawfully and maliciously administer to or cause to be administered to or taken by any other person any poison or other destructive or noxious thing, so as thereby to endanger the life of such person, or so as thereby to inflict upon such person any grievous bodily harm, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding ten years and not less than three years, or to be imprisoned for any term not exceeding two years, with or without hard labour.

This section follows the language of sect. 1 of the 23 Vict. c. 8, which was passed because the law had been "found insufficient to protect persons from the unlawful administering of poison, except in cases where the intent is to commit murder." See sect. 25, *infra*.

As to imprisonment, see *post*, s. 69.

This offence is triable at quarter sessions, but justices would do right to commit to the assizes.

Maliciously  
administer-  
ing poison,  
&c. with in-  
tent to

**24.** Whosoever shall unlawfully and maliciously administer to or cause to be administered to or taken by any other person any poison or other

destructive or noxious thing, with intent to injure, aggrieve or annoy such person, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for the term of three years, or to be imprisoned for any term not exceeding two years, with or without hard labour.

injure, ag-  
grieve or  
annoy any  
other person.

This section follows the 23 Vict. c. 8, s. 2; see the note to the last section.

As to imprisonment, see *post*, s. 69.

This offence can be tried at quarter sessions.

25. If, upon the trial of any person for any felony in the last but one preceding section mentioned, the jury shall not be satisfied that such person is guilty thereof, but shall be satisfied that he is guilty of any misdemeanor in the last preceding section mentioned, then and in every such case the jury may acquit the accused of such felony, and find him guilty of such misdemeanor, and thereupon he shall be liable to be punished in the same manner as if convicted upon an indictment for such misdemeanor.

If the jury  
be not satis-  
fied that any  
person  
charged is  
guilty of  
felony, but  
guilty of  
misdemeanor,  
they may find him  
guilty ac-  
cordingly.

This section follows the 23 Vict. c. 8, s. 3.

26. Whosoever, being legally liable, either as a master or mistress, to provide for any apprentice or servant necessary food, clothing, or lodging, shall wilfully and without lawful excuse refuse or neglect to provide the same, or shall [unlawfully and maliciously do or cause to be done any bodily harm (a) to] any such apprentice or servant, so that the life of such apprentice or servant shall be endangered, or the health of such apprentice or servant shall have been or shall be likely to be permanently in-

Not pro-  
viding ap-  
prentices or  
servants  
with food,  
&c. whereby  
life en-  
dangered.

(a) "Assault," 14 & 15 Vict. c. 11. s. 1.

jured, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for the term of three years, or to be imprisoned for any term not exceeding two years, with or without hard labour.

Framed on the 14 & 15 Vict. c. 11, s. 1. See *post*, s. 73, as to the institution of prosecutions by guardians and overseers, and s. 69, as to imprisonment.

This section, as originally drawn and as it passed the Lords in 1860, included husband, parents, guardians, committees, and nurses, in the penal consequences, and extended the protection to a wife, child, ward, lunatic, idiot, or infant, but this extension of the original act was rejected by the committee of the House of Commons, but the next clause was inserted by them. As to the common law offence of keeping children without sufficient food, and evidence, see *Reg. v. Chandler*, Dears. C. C. 453; 24 L. J. (N. S.) M. C. 100.

This offence can be tried at quarter sessions.

Exposing  
children  
whereby life  
endangered.

27. [Whosoever shall unlawfully abandon or expose any child, being under the age of two years, whereby the life of such child shall be endangered, or the health of such child shall have been or shall be likely to be permanently injured, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for the term of three years, or to be imprisoned for any term not exceeding two years, with or without hard labour.]

This is a new provision intended to meet the cases of *Reg. v. Cooper*, 1 Den. C. C. 459; 18 L. J. (N. S.) M. C. 168; *Reg. v. Hogan*, 2 Den. C. C. 277; 20 L. J. (N. S.) M. C. 219; and *Reg. v. Gray*, *ante*, note (a) to s. 11.) In *Reg. v. Hogan*, it was held that an indictment against the mother of an illegitimate child for abandoning it, could not be sustained as an indictment for neglect of natural duty without an averment that the prisoner had the means of supporting it, or that the child's health had suffered. Why the age of two years was fixed upon does not appear.

As to imprisonment, see *post*, s. 69.



This offence can be tried at quarter sessions, but the character of the offence is such that justices would do right to commit to the assizes.

28. Whosoever shall unlawfully and maliciously, by the explosion of gunpowder or other explosive substance, burn, maim, disfigure, disable, or do any grievous bodily harm to any person, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Causing bodily injury by gunpowder.

Framed on the 9 & 10 Vict. c. 25, s. 3.

As to imprisonment, solitary confinement and whipping, see *post*, s. 69.

This offence cannot be tried at quarter sessions.

29. Whosoever shall unlawfully and maliciously cause any gunpowder or other explosive substance to explode, or send or deliver to or cause to be taken or received by any person any explosive substance or any other dangerous or noxious thing, [or put or lay at any place,] or cast or throw at or upon or otherwise apply to any person, any corrosive fluid or any destructive or explosive substance, with intent in any of the cases aforesaid to burn, maim, disfigure, or disable any person, or to do some grievous bodily harm to any person, shall, whether any bodily injury be effected or not, be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term

Causing gunpowder to explode, or sending to any person an explosive substance, or throwing corrosive fluid on a person, with intent to do grievous bodily harm.

not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Framed on the 9 & 10 Vict. c. 25, s. 4.

As to imprisonment, solitary confinement and whipping, see *post*, ss. 69, 70.

This offence cannot be tried at quarter sessions.

Placing gun-powder near a building, with intent to do bodily injury to any person.

30. Whosoever shall unlawfully and maliciously place or throw in, into, upon, against, or near any building, ship, or vessel any gunpowder or other explosive substance, with intent to do any bodily injury to any person, shall, whether or not any explosion take place, and whether or not any bodily injury be effected, be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding fourteen years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Framed on the 9 & 10 Vict. c. 25, s. 6.

As to imprisonment, solitary confinement and whipping, see *post*, ss. 69, 70.

This offence may be tried at quarter sessions; but see the note to s. 10, 24 & 25 Vict. c. 97, *ante*, p. 125.

Setting spring guns, &c., with intent to inflict grievous bodily harm.

31. Whosoever shall set or place, or cause to be set or placed, any spring gun, man trap, or other engine calculated to destroy human life or inflict grievous bodily harm, with the intent that the same or whereby the same may destroy or inflict grievous bodily harm upon a trespasser or other person coming in contact therewith, shall be guilty of a misdemeanor, and being convicted thereof shall

be liable, at the discretion of the court, to be kept in penal servitude for the term of three years, or to be imprisoned for any term not exceeding two years, with or without hard labour; and whosoever shall knowingly and wilfully permit any such spring gun, man trap, or other engine, which may have been set or placed in any place then being in or afterwards coming into his possession or occupation by some other person, to continue so set or placed, shall be deemed to have set and placed such gun, trap, or engine with such intent as aforesaid: provided that nothing in this section contained shall extend to make it illegal to set or place any gin or trap such as may have been or may be usually set or placed with the intent of destroying vermin: provided also, that nothing in this section shall be deemed to make it unlawful to set or place or cause to be set or placed, or to be continued set or placed, from sunset to sunrise, any spring gun, man trap, or other engine which shall be set or placed, or caused or continued to be set or placed, in a dwelling house, for the protection thereof.

Framed on the 7 & 8 Geo. 4, c. 18, ss. 1, 2, 3, and 4.  
This offence may be tried at quarter sessions.

**32.** Whosoever shall [unlawfully] and maliciously put or throw upon or across any railway any wood, stone, or other matter or thing, or shall [unlawfully (a)] and maliciously take up, remove, or displace any rail, sleeper, or other matter or thing belonging to any railway (b), or shall [unlaw-

Placing wood, &c. on a railway, with intent to endanger passengers.

(a) "Wilfully," 14 & 15 Vict. c. 19, s. 6.

(b) There is no definition of "railway" in the present or in the repealed statute, 14 & 15 Vict. c. 19, although there is in the 3 & 4 Vict. c. 97, (see the note to sect. 34, *infra*.) From the context, however, it must be a railway for the conveyance of passengers.

As to imprisonment, see *post*, s. 69.

This offence can be tried at quarter sessions.

Drivers of  
carriages  
injuring per-  
sons by  
furious  
driving.

35. Whosoever, having the charge of any carriage or vehicle, shall, by wanton or furious driving or racing, or other wilful misconduct, or by wilful neglect, do or cause to be done any bodily harm to any person whatsoever, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour.

Framed on the 1 Geo. 4, c. 4, and extended to Ireland.

As to imprisonment, see *post*, s. 69.

This offence can be tried at quarter sessions.

#### *Assaults.*

Obstructing  
or assaulting  
a clergyman  
or other  
minister in  
the discharge  
of his duties.

36. Whosoever shall, by threats or force, obstruct or prevent, or endeavour to obstruct or prevent, any clergyman or other minister in or from celebrating divine service or otherwise officiating in any church, chapel, meeting house, or other place of divine worship, or in or from the performance of his duty in the lawful burial of the dead in any churchyard or other burial place, or shall strike or offer any violence to, or shall, upon any civil process, or under the pretence of executing any civil process, arrest any clergyman or other minister who is engaged in, or to the knowledge of the offender is about to engage in, any of the rites or duties in this section aforesaid, or who to the knowledge of the offender shall be going to perform the same or returning from the performance thereof, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term

not exceeding two years, with or without hard labour.

Framed on the Irish Acts, 27 Geo. 3, c. 15, s. 5; 40 Geo. 3, c. 96, s. 5; 5 Geo. 4, c. 25, s. 5, and 5 & 6 Vict. c. 28, ss. 7, 19; see also the 9 Geo. 4, c. 31, s. 23, and the corresponding Irish Act, 10 Geo. 4, c. 34, s. 27.

As to imprisonment, see *post*, s. 69.

This offence may be tried at quarter sessions.

**37.** Whosoever shall assault and strike or wound any magistrate, officer, or other person whatsoever lawfully authorized, [in or] on account of the exercise of his duty in or concerning the preservation of any vessel in distress, or of any vessel, goods, or effects wrecked, stranded, or cast on shore, or lying under water, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour.

Assaulting a magistrate, &c. on account of his preserving wreck.

Framed on the 9 Geo. 4, c. 31, s. 24, and the corresponding Irish Act, 10 Geo. 4, c. 34, s. 30.

As to imprisonment, see *post*, s. 69.

This offence can be tried at quarter sessions.

**38.** Whosoever shall assault any person with intent to commit felony, or shall assault, [resist, or wilfully obstruct] any peace officer in the due execution of his duty, or any person acting in aid of such officer, or shall assault any person with intent to resist or prevent the lawful apprehension or detainer of himself or of any other person for any offence, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term

Assault with intent to commit felony, or on peace officers, &c.

not exceeding two years, with or without hard labour.

Framed on the 9 Geo. 4, c. 31, s. 25, and the corresponding Irish Act, 10 Geo. 4, c. 34, s. 31.

As to imprisonment, see *post*, s. 69.

Assaults with intent to obstruct the sale of grain, or its free passage.

39. Whosoever shall beat, or use any violence [or threat of violence] to any person, with intent to deter or hinder him from buying, selling, [or otherwise disposing of, or to compel him to buy, sell, or otherwise dispose of,] any wheat or other grain, flour, meal, malt, or potatoes, in any market or other place, or shall beat or use any such violence [or threat] to any person having the care or charge of any wheat or other grain, flour, meal, malt, or potatoes, whilst on the way to or from any city, market town, or other place, with intent to stop the conveyance of the same, shall, on conviction thereof before two justices of the peace, be liable to be imprisoned and kept to hard labour in the common gaol or house of correction for any term not exceeding three months: provided that no person who shall be punished for any such offence by virtue of this section shall be punished for the same offence by virtue of any other law whatsoever.

Framed on the 9 Geo. 4, c. 31, s. 26, and that section and 14 & 15 Vict. c. 92 (Irish), s. 2 assimilated.

This offence can be tried at quarter sessions.

Assaults on seamen, &c.

40. Whosoever shall unlawfully and with force hinder or prevent any seaman, keelman, or caster from working at or exercising his lawful trade, business, or occupation, or shall beat or use any violence to any such person with intent to hinder or prevent him from working at or exercising the

same, shall, on conviction thereof before two justices of the peace, be liable to be imprisoned and kept to hard labour in the common gaol or house of correction for any term not exceeding three months : provided that no person who shall be punished for any such offence by reason of this section shall be punished for the same offence by virtue of any other law whatsoever.

Framed on the 9 Geo. 4, c. 31, s. 26.

Either party may appeal to one of the superior courts of common law, if dissatisfied with the determination of the justices as being erroneous in point of law, 20 & 21 Vict. c. 43.

41. Whosoever, in pursuance of any unlawful combination or conspiracy to raise the rate of wages, or of any unlawful combination or conspiracy respecting any trade, business, or manufacture, or respecting any person concerned or employed therein, shall unlawfully assault any person, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour.

Assaults arising from combination.

Framed on the 9 Geo. 4, c. 31, s. 25, and on the 10 Geo. 4, c. 34, s. 28, and those provisions assimilated.

As to imprisonment, see *post*, s. 69.

This offence cannot be tried at quarter sessions: 5 & 6 Vict. c. 38.

42. Where any person shall unlawfully assault or beat any other person, two justices of the peace, upon complaint by or on behalf of the party aggrieved, may hear and determine such offence, and the offender shall, upon conviction thereof before them, at the discretion of the justices, either be committed to the common gaol or house of correc-

Persons committing any common assault or battery may be imprisoned or compelled by two magistrates to pay fine and costs not exceeding 5*l*.

tion, there to be imprisoned with or without hard labour for any term not exceeding two months, or else shall forfeit and pay such fine as shall appear to them to be meet, not exceeding, together with costs (if ordered), the sum of five pounds; and if such fine as shall be so awarded, together with the costs (if ordered), shall not be paid, either immediately after the conviction or within such period as the said justices shall at the time of the conviction appoint, they may commit the offender to the common gaol or house of correction, there to be imprisoned, with or without hard labour, for any term not exceeding two months, unless such fine and costs be sooner paid.

Framed on the 9 Geo. 4, c. 31, s. 27, and on the Irish Act, 14 & 15 Vict. c. 92, s. 2, and those provisions assimilated. See sects. 44, 45, *supra*.

Persons convicted of aggravated assaults on females and boys under fourteen years of age may be imprisoned or fined.

43. When any person shall be charged before two justices of the peace with an assault [or battery] upon any male child whose age shall not in the opinion of such justices exceed fourteen years, or upon any female, either upon the complaint of the party aggrieved or otherwise, the said justices, if the assault or battery is of such an aggravated nature that it cannot in their opinion be sufficiently punished under the provisions hereinbefore contained as to common assaults and batteries, may proceed to hear and determine the same in a summary way, and, if the same be proved, may convict the person accused; and every such offender shall be liable to be imprisoned in the common gaol or house of correction, with or without hard labour, for any period not exceeding six months, or to pay a fine not exceeding (together with costs) the sum of twenty pounds, and in de



fault of payment to be imprisoned in the common gaol or house of correction for any period not exceeding six months, unless such fine and costs be sooner paid, and, if the justices shall so think fit, in any of the said cases, shall be bound to keep the peace and be of good behaviour for any period not exceeding six months from the expiration of such sentence.

Framed on the 16 & 17 Vict. c. 30, s. 1, and extended to Ireland.

Either party may appeal, under the 20 & 21 Vict. c. 43, if dissatisfied with the determination of the justices as being erroneous in point of law.

44. If the justices, upon the hearing (*a*) of any such case of assault or battery [upon the merits, where the complaint was preferred by or on the behalf of the party aggrieved,] under either of the last two preceding sections, shall deem the offence not to be proved, or shall find the assault or battery to have been justified, or so trifling as not to merit any punishment, and shall accordingly dismiss the complaint, they shall forthwith (*b*) make out a certificate under their hands stating the fact of such dismissal, and shall deliver such certificate to the party against whom the complaint was preferred.

If the magistrates dismiss the complaint, they shall make out a certificate to that effect.

(*a*) As to what amounts to a "hearing," see *Bradshaw v. Faughton*, 30 L. J. (N. S.) C. P. 93; *Tunncliffe v. Tedd*, 17 L. J., M. C. 67.

(*b*) "Forthwith" means forthwith upon the application of the party entitled to the certificate, and not forthwith upon the dismissal of the complaint, *Costar v. Hetherington*, 28 L. J. (N. S.) M. C. 198.

This section is framed on the 9 Geo. 4, c. 31, s. 27, and the Irish Act, 14 & 15 Vict. c. 93, s. 21.

The granting the certificate is a ministerial and not a judicial act, and justices who have heard a charge of assault and dismissed it, are bound to grant a certificate, *Hancock v. Some*s, 20 L. J. (N. S.) M. C. 196.

Certificate or conviction shall be a bar to any other proceedings.

45. If any person, against whom any such complaint as in either of the last three preceding sections mentioned shall have been preferred [by or on the behalf of the party aggrieved,] shall have obtained such certificate, or, having been convicted, shall have paid the whole amount adjudged to be paid, or shall have suffered the imprisonment or imprisonment with hard labour awarded, in every such case he shall be released from all further or other proceedings, civil or criminal, for the same cause.

Framed on the 9 Geo. 4, c. 31, s. 28. And see the 16 & 17 Vict. c. 30, s. 1, and the Irish Act, 14 & 15 Vict. c. 93, s. 21.

These provisions not to apply to certain cases.

46. Provided, that in case the justices shall find the assault or battery complained of to have been accompanied by any attempt to commit felony, or shall be of opinion that the same is, from any other circumstance, a fit subject for a prosecution by indictment, they shall abstain from any adjudication thereupon, and shall deal with the case in all respects in the same manner as if they had no authority finally to hear and determine the same: provided also, that nothing herein contained shall authorize any justices to hear and determine any case of assault or battery in which any question shall arise as to the title to any lands, tenements or hereditaments, or any interest therein or accruing therefrom, or as to any bankruptcy or insolvency, or any execution under the process of any court of justice.

Framed on the 9 Geo. 4, c. 31, s. 22, and on the Irish Act, 14 & 15 Vict. c. 92, s. 2.

Assault occasioning bodily harm.

47. Whosoever shall be convicted upon an indictment of any assault occasioning actual bodily

harm shall be liable, at the discretion of the court, to be kept in penal servitude for the term of three years, or to be imprisoned for any term not exceeding two years, with or without hard labour; [and whosoever shall be convicted upon an indictment for a common assault shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding one year, with or without hard labour.]

Common  
assault.

Framed in part on the 14 & 15 Vict. c. 100, s. 29, which first gave the power to impose hard labour in a variety of misdemeanors. This section for the first time gives the same power on a conviction for a common assault.

As to imprisonment, see *post*, s. 69.

Upon an indictment for an assault occasioning actual bodily harm, under the first part of this section, the defendant may be convicted of a common assault, *Reg. v. Oliver*, 30 L. J. (N. S.) M. C. 12.

Upon a conviction for an assault, whether with or without battery and wounding, the offender may be adjudged to pay the prosecutor's costs. See *post*, ss. 74, 75.

### *Rape, Abduction, and Defilement of Women.*

48. Whosoever shall be convicted of the crime of rape (a) shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years, or to be imprisoned for any term not exceeding two years, with or without hard labour.

Rape.

(a) As to the definition of rape, see *Reg. v. Fletcher*, 28 L. J. (N. S.) M. C. 85.

The 9 Geo. 4, c. 31, and the corresponding Irish Act, 10 Geo. 4, c. 34, retained rape and the carnal knowledge of children as capital crimes (see sects. 16, 17), but by the 4 & 5 Vict. c. 56, s. 3, the punishment was commuted to transportation for life; and by the 9 & 10 Vict. c. 29, s. 1, the court might, instead of transportation for life, award transportation for not less than seven years, or imprisonment for any period not exceeding two years.

This offence cannot be tried at quarter sessions.

49. Whosoever shall, by false pretences, false representations, or other fraudulent means, pro-

Procuring  
the defile-

ment of girl  
under age.

cure any woman or [girl (a)] under the age of twenty-one years to have illicit carnal connexion with any man, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour.

(a) "Child," 12 & 13 Vict. c. 76, s. 1.

Framed on the 12 & 13 Vict. c. 76, s. 1. This is an offence at common law, *Reg. v. Mears*, 2 Den. C. C. 79; 20 L. J., M. C. 159.

As to imprisonment, see *post*, s. 69.

This offence may be tried at quarter sessions.

Carnally  
knowing a  
girl under  
ten years of  
age.

50. Whosoever shall unlawfully and carnally know and abuse any girl under the age of ten years shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour.

Framed on the 9 Geo. 4, c. 31, s. 17, and the Irish Act, 10 Geo. 4, c. 24, s. 20, and see the note to sect. 48, *supra*.

As to imprisonment, see *post*, s. 69.

This offence cannot be tried at quarter sessions.

Carnally  
knowing a  
girl between  
the ages of  
ten and  
twelve.

51. Whosoever shall unlawfully and carnally know and abuse any girl being above the age of ten years and under the age of twelve years shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for the term of three years, or to be imprisoned for any term not exceeding two years, with or without hard labour.

Framed on the 9 Geo. 4, c. 31, s. 17, and the Irish Act, 10 Geo. 4, c. 34, s. 20.

As to imprisonment, see *post*, s. 69.

This offence can be tried at quarter sessions.

52. Whosoever shall be convicted of any indecent assault upon any female, or of any attempt to have carnal knowledge of any girl under twelve years of age, shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour.

Attempt to commit the last two offences.

The 14 & 15 Vict. c. 100, s. 29, made these offences punishable with hard labour (see note to sect. 47).

As to imprisonment, see *post*, s. 69.

This offence can be tried at quarter sessions.

53. Where any woman [of any age] shall have any interest, whether legal or equitable, present or future, absolute, conditional, or contingent, in any real or personal estate, or shall be a presumptive heiress [or coheiress,] or [presumptive] next of kin, [or one of the presumptive next of kin,] to any one having such interest, whosoever shall, from motives of lucre, take away or detain such woman against her will, with intent to marry or carnally know her, or to cause her to be married or carnally known by any other person; and whosoever shall fraudulently allure, take away, or detain such woman, being under the age of twenty-one years, out of the possession and against the will of her father or mother, or of any other person having the lawful care or charge of her, with intent to marry or carnally know her, [or to cause her to be married or carnally known by any other person,] shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding fourteen years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour (a); and who-

Abduction of a woman against her will, from motives of lucre.

Fraudulent abduction of a girl under age against the will of her father, &c.

(a) See *post*, s. 69.

Offender incapable of taking any of her property.

soever shall be convicted of any offence against this section shall be incapable of taking any estate or interest, legal or equitable, in any real or personal property of such woman, [or in which she shall have any such interest, or which shall come to her as such heiress, coheiress, or next of kin as aforesaid ;] and if any such marriage as aforesaid shall have taken place, such property shall, upon such conviction, be settled in such manner as the court of chancery in England or Ireland shall upon any information at the suit of the attorney general appoint.

This section extends the 9 Geo. 4, c. 31, s. 19, to Ireland, and the Irish Act, 10 Geo. 4, c. 34, s. 23, to England.

This offence cannot be tried at quarter sessions: 5 & 6 Vict. c. 38.

Forcible abduction of any woman with intent to marry her.

54. Whosoever shall, by force, take away or detain against her will any woman, of any age, with intent to marry or carnally know her, or to cause her to be married or carnally known by any other person, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding fourteen years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour.

Framed on the Irish Act, 10 Geo. 4, c. 34, s. 22, and extended to England.

As to imprisonment, see *post*, s. 69.

This offence cannot be tried at quarter sessions: 5 & 6 Vict. c. 38.

Abduction of a girl under sixteen years of age.

55. Whosoever shall unlawfully take or cause to be taken any unmarried girl, being under the age of sixteen years, out of the possession and against

the will of her father or mother, or of any other person having the lawful care or charge of her, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour.

Framed on the 9 Geo. 4, c. 31, s. 20, and the corresponding Irish Act, 10 Geo. 4, c. 34, s. 24.

Inducing a girl without her father's consent to leave her father's house, by making an appointment to meet her elsewhere, for the purpose of cohabiting with her, is a taking of the girl out of the possession and against the will of her father, within this provision. *Reg. v. Timmins*, 30 L. J. (N. S.) M. C. 45; and see *Reg. v. Mankletow*, 1 Dears. 159; 22 L. J. (N. S.) M. C. 115.

As to imprisonment, see *post*, s. 69.

This offence cannot be tried at quarter sessions.

### *Child-stealing.*

56. Whosoever shall unlawfully, either by force or fraud, lead or take away, or decoy or entice away or detain, any child under the age of [fourteen (a)] years, with intent to deprive any parent, [guardian] or other person having the lawful care or charge of such child of the possession of such child, or with intent to steal any article upon or about the person of such child, to whomsoever such article may belong, and whosoever shall, with any such intent, receive or harbour any such child, knowing the same to have been, by force or fraud, led, taken, decoyed, enticed away, or detained as in this section before mentioned, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or

Child-stealing.

(a) Ten years, 9 Geo. 4, c. 31, s. 21.

without hard labour, and if a male under the age of sixteen years, with or without whipping (a): provided that no person who [shall have claimed any right to the possession of such child, or shall be the mother or] shall have claimed to be the father of an illegitimate child, shall be liable to be prosecuted by virtue hereof on account of the getting possession of such child, or taking such child out of the possession of any person having the lawful charge thereof.

(a) As to imprisonment and whipping, see *post*, ss. 69, 70.

Framed on the 9 Geo. 4, c. 31, s. 21, and the Irish Act, 10 Geo. 4, c. 34, s. 25.

It seems that the quarter sessions has power to try this offence, as it does not strictly fall within the definition of "abduction of women and girls." See 5 & 6 Vict. c. 38.

### *Bigamy.*

Bigamy.

57. Whosoever, being married, shall marry any other person during the life of the former husband or wife, whether the second marriage shall have taken place in England or Ireland or elsewhere, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years, —or to be imprisoned for any term not exceeding two years, with or without hard labour (b); and any such offence may be dealt with, inquired of, tried, determined, and punished in any county or place in England or Ireland where the offender shall be apprehended or be in custody, in the same manner in all respects as if the offence had been actually committed in that county or place: pro-

Offence may be dealt with where offender shall be apprehended.

Not to ex-

(b) See *post*, s. 69.



vided that nothing in this section contained shall extend to any second marriage contracted elsewhere than in England and Ireland by any other than a subject of her majesty (a), or to any person marrying a second time whose husband or wife shall have been continually absent from such person for the space of seven years then last past, and shall not have been known by such person to be living within that time, or shall extend to any person who, at the time of such second marriage, shall have been divorced from the bond of the first marriage, or to any person whose former marriage shall have been declared void by the sentence of any court of competent jurisdiction.

tend to second marriages, &c. herein stated.

(a) If he be a British subject, it is immaterial where the marriage took place, *Reg. v. Topping*, Dears. C. C. 647; 25 L. J. (N. S.) M. C. 72.

Framed on the 9 Geo. 4, c. 31, s. 22, and the Irish Act, 10 Geo. 4, c. 34, s. 26.

This section does not solve the doubt whether the onus is cast on the prosecution of proving that the prisoner knew her husband was alive, or on the prisoner of proving that she did not know it. See *Reg. v. Briggs*, 1 Dears. & B. 98; 26 L. J. (N. S.) M. C. 7.

This offence cannot be tried at quarter sessions, 5 & 6 Vict. c. 38.

### *Attempts to procure Abortion.*

58. [Every woman, being with child, who, with intent to procure her own miscarriage, shall unlawfully administer to herself any poison or other noxious thing, or shall unlawfully use any instrument or other means whatsoever with the like intent, and] whosoever, with intent to procure the miscarriage of any woman, [whether she be or be not with child,] shall unlawfully administer to her

Administering drugs or using instruments to procure abortion.

or cause to be taken (a) by her any poison or other noxious thing, or shall unlawfully use any instrument or other means whatsoever with the like intent, shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

(a) As to what is a causing to be taken, see *Reg. v. Wilson*, 1 Dears. & B. 127; 26 L. J. (N. S.) M. C. 18.

Framed on the 7 Will. 4 & 1 Vict. c. 85, s. 6.

As to imprisonment and solitary confinement, see *post*, ss. 69, 70.

This offence cannot be tried at quarter sessions.

Procuring  
drugs, &c.  
to cause  
abortion.

59. [Whosoever shall unlawfully supply or procure any poison or other noxious thing, or any instrument or thing whatsoever, knowing that the same is intended to be unlawfully used or employed with intent to procure the miscarriage of any woman, whether she be or be not with child, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for the term of three years, or to be imprisoned for any term not exceeding two years, with or without hard labour.]

This provision is new, but the act mentioned in it would, in general, render a person an accessory before the fact, and therefore indictable as a principal, see the 24 & 25 Vict. c. 94, s. 1 and note, *ante*, p. 1.

As to imprisonment, see *post*, ss. 69, 70.

An indictment specially framed on this section is triable at quarter sessions, but justices would do right to commit to the assizes.

*Concealing the Birth of a Child.*

60. If any woman shall be delivered of a child, every person (a) who shall, by any secret (b) disposition of the dead body of the said child, [whether such child died before, at, or after its birth,] endeavour to conceal the birth thereof (c), shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour (d): provided that if any person tried for the murder of any child shall be acquitted thereof, it shall be lawful for the jury by whose verdict such person shall be acquitted to find, in case it shall so appear in evidence, that the child had recently been born and that such person did, by some secret disposition of the dead body of such child, endeavour to conceal the birth thereof, and thereupon the court may pass such sentence as if such person had been convicted upon an indictment for the concealment of the birth.

Concealing  
the birth of  
a child.

(a) These words were retained after a division in the select committee of the House of Commons, and the members were equally divided upon the subject.

(b) The word "secret" was in like manner retained after a division in the committee.

(c) The language of the 9 Geo. 4, c. 31, s. 14, was, "If any woman shall be delivered of a child, and shall, by secret burying or otherwise disposing of the dead body of the said child, endeavour to conceal the birth thereof, every such offender, &c." And sect. 31 enacted, that every person who should counsel, aid or abet the commission of any misdemeanor punishable under that act is liable to be proceeded against as a principal offender.

(d) See *post*, s. 69.

Framed on the 9 Geo. 4, c. 31, s. 14, and the Irish Act, 10 Geo. 4, c. 34, s. 17.

This offence cannot be tried at quarter sessions: 5 & 6 Vict. c. 38.

*Unnatural Offences.*

Sodomy and  
bestiality.

61. Whosoever shall be convicted of the abominable crime of buggery, committed either with mankind or with any animal, shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than ten years.

Framed on the 9 Geo. 4, c. 31, s. 15, and the Irish Act, 10 Geo. 4, c. 34, s. 18.

By those acts, however, the offence was capital, and so continued to the present time.

This offence cannot be tried at quarter sessions.

Attempt to  
commit an  
infamous  
crime.

62. [Whosoever shall attempt to commit the said abominable crime, or shall be guilty of any assault, with intent to commit the same, or of any indecent assault upon any male person, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding ten years and not less than three years, or to be imprisoned for any term not exceeding two years, with or without hard labour.]

This provision is new.

Assaults, with intent to commit felonies, were, by the 9 Geo. 4, c. 31, s. 25, punishable with two years' imprisonment and hard labour; and attempts to commit felonies are indictable as common law misdemeanors. See also the 14 & 15 Vict. c. 100, s. 9, *ante*, p. 62, note.

As to imprisonment, see *post*, s. 69.

This offence may be tried at quarter sessions.

Carnal know-  
ledge  
defined.

63. Whenever, upon the trial for any offence punishable under this act, it may be necessary to prove carnal knowledge, it shall not be necessary to prove the actual emission of seed in order to constitute a carnal knowledge, but the carnal

knowledge shall be deemed complete upon proof of penetration only.

Framed on the 9 Geo. 4, c. 31, s. 18, and the Irish Act, 10 Geo. 4, c. 34, s. 21.

*Making Gunpowder to commit Offences, and searching for the same.*

64. Whosoever shall knowingly have in his possession, or make or manufacture, any gunpowder, explosive substance, or any dangerous or noxious thing, or any machine, engine, instrument, or thing, with intent by means thereof to commit, or for the purpose of enabling any other person to commit, any of the felonies in this act mentioned, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Making or having gunpowder, &c., with intent to commit any felony against this act.

Framed on the 9 & 10 Vict. c. 25, s. 8.

As to imprisonment, solitary confinement and whipping, see *post*, ss. 69, 70.

This offence can be tried at quarter sessions; but see the note to sect. 10 of the 24 & 25 Vict. c. 97, *ante*, p. 125.

65. Any justice of the peace of any county or place in which any such gunpowder, or other explosive, dangerous, or noxious substance or thing, or any such machine, engine, instrument, or thing, is suspected to be made, kept, or carried for the purpose of being used in committing any of the felonies in this act mentioned, upon reasonable cause assigned upon oath by any person, may issue a warrant under his hand and seal for searching,

Justices may issue warrants for searching houses, &c. in which explosive substances are suspected to be made for the purpose of committing felonies against this act.

in the daytime, any house, mill, magazine, storehouse, warehouse, shop, cellar, yard, wharf, or other place, or any carriage, waggon, cart, ship, boat, or vessel, in which the same is suspected to be made, kept, or carried for such purpose as hereinbefore mentioned; and every person acting in the execution of any such warrant shall have for seizing, removing to proper places, and detaining all such gunpowder, explosive, dangerous, or noxious substances, machines, engines, instruments or things, found upon such search, which he shall have good cause to suspect to be intended to be used in committing any such offence, and the barrels, packages, cases, and other receptacles in which the same shall be, the same powers and protections which are given to persons searching for unlawful quantities of gunpowder under the warrant of a justice by the act passed in the session holden in the twenty-third and twenty-fourth years of the reign of her present majesty, chapter one hundred and thirty-nine, intituled "An Act to amend the Law concerning the making, keeping, and Carriage of Gunpowder and Compositions of an explosive Nature, and concerning the Manufacture, Sale, and Use of Fireworks."

23 & 24 Vict.  
c. 139.

Framed on the 9 & 10 Vict. c. 25, s. 12.

#### *Other Matters.*

A person loitering at night, and suspected of any felony against this act, may be apprehended.

66. Any constable or peace officer may take into custody, without a warrant, any person whom he shall find lying or loitering in any highway yard, or other place during the night (*a*), and whom

(*a*) There is no definition of "night" in this act: see the note to sect. 52, 24 & 25 Vict. c. 96, *ante*, p. 59. The committee of the House of Commons divided upon the question whether the words "during the night" should be retained.

he shall have good cause to suspect of having committed or being about to commit any felony in this act mentioned, and shall take such person as soon as reasonably may be before a justice of the peace, to be dealt with according to law.

Taken from the 9 & 10 Vict. c. 25, ss. 13, 14. See the 14 & 15 Vict. c. 19, s. 11 (unrepealed), in the note to sect. 104 of the 24 & 25 Vict. c. 96, *ante*, p. 104.

67. In the case of every felony punishable under this act, every principal in the second degree (*a*), and every accessory before the fact, shall be punishable in the same manner as the principal in the first degree is by this act punishable; and every accessory after the fact to any felony punishable under this act (except murder) shall be liable to be imprisoned for any term not exceeding two years, with or without hard labour; and every accessory after the fact to murder shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years, or to be imprisoned for any term not exceeding two years, with or without hard labour (*b*); and whosoever shall counsel, aid, or abet the commission of any indictable misdemeanor punishable under this act shall be liable to be proceeded against, indicted, and punished as a principal offender.

Punishment of principals in the second degree, and accessories.

(*a*) See the note to sect. 98 of the 24 & 25 Vict. c. 96, *ante*, p. 98.

(*b*) See sect. 69, *post*.

Framed on the 9 Geo. 4, c. 31, ss. 3, 31, and the Irish Act, 10 Geo. 4, c. 34, ss. 3, 40. See the Accessories and Abettors Act, 24 & 25 Vict. c. 94, ss. 1, 2, 4, 8, and notes to those sections, *ante*, pp. 1—5, from which it will be seen that, except so far as regards accessories after the fact to murder, the provisions of this section are merged in the general provisions of that act.

68. All indictable offences mentioned in this Offences

committed within the jurisdiction of the admiralty.

act which shall be committed within the jurisdiction of the admiralty of England or Ireland shall be deemed to be offences of the same nature and liable to the same punishments as if they had been committed upon the land in England or Ireland, and may be dealt with, inquired of, tried, and determined in any county or place in England or Ireland, in which the offender shall be apprehended or be in custody, in the same manner in all respects as if they had been actually committed in that county or place; and in any indictment for any such offence, or being an accessory to such an offence, the venue in the margin shall be the same as if the offence had been committed in such county or place, and the offence shall be averred to have been committed "on the high seas:" provided that nothing herein contained shall alter or affect any of the laws relating to the government of her majesty's land or naval forces.

Framed on the 9 Geo. 4, c. 31, s. 32, and the Irish Act, 10 Geo. 4, c. 34, s. 41. See also 7 & 8 Vict. c. 2. So far as respects accessories this offence is merged in the 24 & 25 Vict. c. 94, ss. 7, 9, *vide ante*, pp. 4, 5.

Hard labour in gaol or house of correction.

69. Whenever imprisonment, with or without hard labour, may be awarded for any indictable offence under this act, the court may sentence the offender to be imprisoned, or to be imprisoned and kept to hard labour, in the common gaol or house of correction.

Solitary confinement and whipping.

70. Whenever solitary confinement may be awarded for any offence under this act, the court may direct the offender to be kept in solitary confinement for any portion or portions of any imprisonment, or of any imprisonment with hard labour,



which the court may award, not exceeding one month at any one time, and not exceeding three months in any one year ; [and whenever whipping may be awarded for any offence under this act, the court may sentence the offender to be once privately whipped, and the number of strokes and the instrument with which they shall be inflicted shall be specified by the court in the sentence.]

The first part of this section is framed on the 7 Will. 4 & 1 Vict. c. 90, s. 5. The latter part of the clause was added by the select committee of the House of Commons, on the motion of Sir G. C. Lewis.

71. [Whenever any person shall be convicted of any indictable misdemeanor punishable under this act, the court may, if it shall think fit, in addition to or in lieu of any punishment by this act authorized, fine the offender, and require him to enter into his own recognizances, and to find sureties, both or either, for keeping the peace and being of good behaviour ; and in case of any felony punishable under this act otherwise than with death, the court may, if it shall think fit, require the offender to enter into his own recognizances and to find sureties, both or either, for keeping the peace, in addition to any punishment by this act authorized ; provided that no person shall be imprisoned for not finding sureties under this clause for any period exceeding one year.]

Fine and sureties for keeping the peace ; in what cases.

72. No summary conviction under this act shall be quashed for want of form, or be removed by certiorari into any of her majesty's superior courts of record ; and no warrant of commitment shall be held void by reason of any defect therein, provided it be therein alleged that the party has been con-

No certiorari, &c.

victed, and there be a good and valid conviction to sustain the same.

Guardians and overseers may be required to prosecute in certain cases of offences against this act.

73. Where any complaint shall be made of any offence against section twenty-six of this act, or of any bodily injury inflicted upon any person under the age of sixteen years, for which the party committing it is liable to be indicted, and the circumstances of which offence amount, in point of law, to a felony, or an attempt to commit a felony, or an assault with intent to commit a felony, and two justices of the peace before whom such complaint is heard shall certify under their hands that it is necessary for the purposes of public justice that the prosecution should be conducted by the guardians of the union or place, or, where there are no guardians, by the overseers of the poor of the place, in which the offence shall be charged to have been committed, such guardians or overseers, as the case may be, upon personal service of such certificate or a duplicate thereof upon the clerk of such guardians or upon any one of such overseers, shall conduct the prosecution, and shall pay the costs reasonably and properly incurred by them therein (so far as the same shall not be allowed to them under any order of any court) out of the common fund of the union, or out of the funds in the hands of the guardians or overseers, as the case may be; and, where there is a board of guardians, the clerk or some other officer of the union or place, and, where there is no board of guardians, one of the overseers of the poor may, if such justices think it necessary for the purposes of public justice, be bound over to prosecute.

Costs of prosecution.

Clerk of guardians may be bound over to prosecute.

Framed on the 14 & 15 Vict. c. 11, s. 6, and extended to

Ireland. See also the unrepealed provisions of that act with respect to the visiting of young persons in workhouses.

74. Where any person shall be convicted on any indictment of any assault, whether with or without battery and wounding, or either of them, such person may, if the court think fit, in addition to any sentence which the court may deem proper for the offence, be adjudged to pay to the prosecutor his actual and necessary costs and expenses of the prosecution, and such moderate allowance for the loss of time as the court shall by affidavit or other inquiry and examination ascertain to be reasonable; and, unless the sum so awarded shall be sooner paid, the offender shall be imprisoned for any term the court shall award, not exceeding three months, in addition to the term of imprisonment (if any) to which the offender may be sentenced for the offence.

On a conviction for assault the court may order payment of the prosecutor's costs by the defendant.

Framed on the Irish Act, 10 Geo. 4, c. 34, s. 33, which is thus extended to England. In cases of common assault the costs cannot be allowed in the usual way. When, however, the parties are bound by recognizances to prosecute assaults, the costs may be allowed under the 14 & 15 Vict. c. 55, s. 3 (unrepealed), independently of sect. 77, *post*.

75. The court may, by warrant under hand and seal, order such sum as shall be so awarded to be levied by distress and sale of the goods and chattels of the offender, and paid to the prosecutor, and that the surplus, if any, arising from such sale, shall be paid to the owner; and in case such sum shall be so levied the imprisonment awarded until payment of such sum shall thereupon cease.

Such costs may be levied by distress.

Framed on the Irish Act, 10 Geo. 4, c. 34, s. 34. See the note to the last section.

Summary proceedings in England may be under the 11 & 12 Vict. c. 43, and in Ireland under the 14 & 15 Vict. c. 93.

Except in London and the metropolitan police district.

The costs of the prosecution of misdemeanors against this act may be allowed.

76. [Every offence hereby made punishable on summary conviction may be prosecuted in England in the manner directed by the act of the session holden in the eleventh and twelfth years of queen Victoria, chapter forty-three, and may be prosecuted in Ireland before two or more justices of the peace, or one metropolitan or stipendiary magistrate, in the manner directed by the act of the session holden in the fourteenth and fifteenth years of queen Victoria, chapter ninety-three, or in such other manner as may be directed by any act that may be passed for like purposes; and all provisions contained in the said acts shall be applicable to such prosecutions in the same manner as if they were incorporated in this act: provided that nothing in this act contained shall in any manner alter or affect any enactment now in force relating to procedure, in the case of any offence punishable on summary conviction, within the city of London or the metropolitan police district, or the recovery or application of any penalty or forfeiture for any such offence.]

77. [The court before which any misdemeanor indictable under the provisions of this act shall be prosecuted or tried may allow the costs of the prosecution in the same manner as in cases of felony; and every order for the payment of such costs shall be made out, and the sum of money mentioned therein paid and repaid, upon the same terms and in the same manner in all respects as in cases of felony.]

See the note to the corresponding section of the Larceny Act, 24 & 25 Vict. c. 96, s. 121, *ante*, p. 118.

78. Nothing in this act contained shall extend Act not to extend to Scotland.  
to Scotland, except as hereinbefore otherwise ex-  
pressly provided.

79. This act shall commence and take effect on Commence-  
ment of act.  
the first day of November, one thousand eight hun-  
dred and sixty-one.

*[The following Tables of Offences punishable upon indictment and upon Summary Conviction present at a glance the particular offence, and a reference to the new and old statute applicable to it, and the limits of punishment.*

*The Tables include the offences under the Bankrupt Act 24 & 25 Vict. c. 134, passed subsequently to the Criminal Law Consolidation Acts.]*

**A Table**  
OF  
**INDICTABLE OFFENCES**

**UNDER THE NEW CRIMINAL AND BANKRUPTCY LAW CONSOLIDATION ACTS,**

**WITH REFERENCES TO THE PRESENT AND FORMER ACTS, AND THE PUNISHMENT PROVIDED FOR EACH OFFENCE.**

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**RECURRENT FELONY.**—Upon conviction of any felony, not punishable with death (except simple larceny, which is provided for in the new act), committed after a previous conviction for felony, the Court may pass sentence of penal servitude for life, or for any term not less than three years, or to be imprisoned (with or without hard labour and with or without solitary confinement and whipping) for any term not exceeding four years. See 7 & 8 Geo. 4, c. 28, ss. 9, 11; 20 & 21 Vict. c. 3.

**RECOGNIZANCE AND SURETIES.**—Upon conviction of any indictable misdemeanor under the *Criminal Law Consolidation Acts*, the Court may, in addition to or in lieu of the punishment awarded, fine the offender and require him to enter into his own recognizances and to find sureties, both or either, for keeping the peace and being of good behaviour. And in case of any felony punishable under those acts, the Court may require such recognizances and sureties in addition to the punishment authorized. But no person shall be imprisoned for not finding sureties for any period exceeding one year.

**SHORT CONFINEMENT,** where authorized, may be directed for any portion or portions of the imprisonment, not exceeding one month at any one time, and not exceeding three months in any one year.

**WHIPPING** is limited to males under the age of sixteen years (excepting the case of taking a reward to recover stolen property, in which it is extended to eighteen years), and, where authorized, the Court may sentence the offender to be *once* privately whipped, and the number of strokes and the instrument with which they shall be inflicted shall be specified by the Court in the sentence.

Offence.	Felony or Misdemeanor.	Reference to Consolidation Acts.	Reference to previous Acts.	Punishment.			
				Not exceeding.	Not less.	Impr. with or without hard labor.	Solitary confinement, whipping.
<b>ABANDONING A CHILD.—See "Child."</b>							
ABDUCTION of a woman against her will from motives of lucre .. .. .	F.	24 & 25 Vict. c. 100, s. 53 ..	9 Geo. 4, c. 31, s. 19	14	3	2	
fraudulent, of any woman under 21 against the will of her father, &c.	F.	" " "	10 Geo. 4, c. 34, s. 23	14	3	2	
by force, of any woman, with intent to marry or carnally know .. .. .	F.	" " s. 54 {	10 Geo. 4, c. 34, s. 22	14	3	2	
of unmarried girl under the age of 16 ..	M.	" " s. 55 {	5 & 6 Vict. c. 28, ss. 15, 19	..	..	..	
			9 Geo. 4, c. 31, s. 20				
			10 Geo. 4, c. 34, s. 24				
ABETTOR in any misdemeanor .. .. .	..	24 & 25 Vict. c. 94, s. 8 {	7 & 8 Geo. 4, c. 30, s. 26	Same as principal offender.			
			9 Geo. 4, c. 55, s. 54				
			9 Geo. 4, c. 56, s. 33				
ABORTION. Administering poison or using instrument or other means to procure miscarriage .. .. .	F.	24 & 25 Vict. c. 100, s. 58 {	7 Will. 4 & 1 Vict. c. 85, ss. 6, 7, 8	..	3	2	s. c.
Supplying or procuring poison or instrument, knowing the intent to use same	M.	" " s. 59 ..	.. .. .	3	3	2	



After the fact to any felony punishable under these acts (except receiver of stolen property) .. .. .	"	c. 96, s. 98	7 & 8 Geo. 4, c. 29, s. 61 9 Geo. 4, c. 55, s. 54 7 & 8 Geo. 4, c. 30, s. 26 9 Geo. 4, c. 56, s. 33	..	..	2	s. c.		
	"	c. 97, s. 56		"	..	2	s. c.		
	"	c. 98, s. 49 ..		1 Will. 4, c. 66, s. 25	"	..	2	s. c.	
After the fact to any felony under these acts (except murder) .. .. .	"	c. 99, s. 35 ..	2 Will. 4, c. 34, s. 18	..	..	2	s. c.		
	"	c. 100, s. 67	9 Geo. 4, c. 31, s. 31 10 Geo. 4, c. 34, s. 40	..	..	2	s. c.		
After the fact to any other felony .. .. .	"	c. 94, s. 4 ..	.. .. .	..	..	2	s. c.		
ACCUSING, or threatening to accuse of infamous crime, &c., to extort or gain ..	F.	24 & 25 Vict. c. 96, s. 47	7 & 8 Geo. 4, c. 29, s. 8 9 Geo. 4, c. 55, s. 8 7 Will. 4 & 1 Vict. c. 87, s. 4 10 & 11 Vict. c. 66, s. 2	L.	3	2	w.		
	M.	24 & 25 Vict. c. 96, s. 78		7 & 8 Geo. 4, c. 29, ss. 4, 51 9 Geo. 4, c. 55, ss. 4, 44 5 & 6 Vict. c. 39, s. 6	7	3	2	s. c.	
AGENT or factor consigning goods by way of pledge, or taking advance thereon clerk of, assisting .. .. . converting goods to his own use.—See "Banker."	M.	24 & 25 Vict. c. 100, s. 26 ..	14 & 15 Vict. c. 11, s. 1 ..	3	3	2	s. c.		
APPRENTICE or servant. Master refusing or neglecting to provide food, &c., or doing bodily harm, so that life endangered or health permanently injured .. .. .	M.	24 & 25 Vict. c. 100, s. 26 ..	14 & 15 Vict. c. 11, s. 1 ..	3	3	2	s. c.		
AQUEDUCT, pulling down.—See "Bridge."									

INDICTABLE OFFENCES.

Offence.	Felonv or misdemeanour.	Reference to Consolidation Acts.	Reference to previous Acts.	Punishment.		
				Penal servitude. (Years.)	Imprisonment with or without hard labor.	Solitary confinement with whipping.
ARSON, church, chapel meeting-house ..	F.	24 & 25 Vict. c. 97, s. 1	{ 7 Will. 4 & 1 Vict. c. 89, ss. 3, 12 9 & 10 Vict. c. 24, s. 1 9 & 10 Vict. c. 25, s. 9	Not exceeding 14	Not exceeding 2	Solitary confinement with whipping.
dwelling-house, person being therein	F.	" " s. 2	{ 7 Will. 4 & 1 Vict. c. 89, s. 2 7 Will. 4 & 1 Vict. c. 89, s. 3	L.	2	s. c. & w.
house, stable, coach-house, out-house, warehouse, office, shop, mill, malt-house, hop-oast, barn, storehouse, granary, hovel, shed, fold or farm building, with intent to injure or defraud	F.	" " s. 3	{ 7 & 8 Vict. s. 62, ss. 1, 3 9 & 10 Vict. c. 24, s. 1 9 & 10 Vict. c. 25, s. 9	L.	3	s. c. & w.
railway buildings ..	F.	" " s. 4	{ 14 & 15 Vict. c. 19, s. 8	L.	3	w.
public buildings ..	F.	" " s. 5	{ .. .. .	L.	3	w.
any other building ..	F.	" " s. 6	{ .. .. .	L.	3	w.
anything in, against or under any building the setting fire to which is felony	F.	" " s. 7	{ 7 & 8 Vict. c. 62, ss. 2, 3 14 & 15 Vict. c. 19, s. 8	14	2	w.
attempt, of building or anything in, &c. . .	F.	" " s. 8	{ 9 & 10 Vict. c. 25, ss. 7, 9, 11	14	2	w.
crops, wood, coppice, plantation, heath, gorse, furze, fern ..	F.	" " s. 16	{ 7 & 8 Geo. 4, c. 30, ss. 17, 27 9 Geo. 4, c. 56, ss. 18, 34	14	3	s. c. & w.
.. .. .	F.	" " s. 17	{ 7 Will. 4 & 1 Vict. c. 89, ss. 10, 19	L.	2	s. c. & w.



Offence.	Felony or misdemeanour.	Reference to Consolidation Acts.	Reference to previous Acts.	Punishment.		
				Not exceed- ing.	Not less.	Impr. with or without hard labor.
BAILEE fraudulently converting to his own use .. .. .	F.	24 & 25 Vict. c. 96, s. 3 ..	20 & 21 Vict. c. 54, s. 4 ..	Not exceed- ing.	Not less.	Impr. with or without hard labor.
BANK OF ENGLAND and Ireland. embezzlement by officer of. See "Embezzlement."	F.	24 & 25 Vict. c. 98, s. 5	37 Geo. 3, c. 54, ss. 14, 16 (I.) 1 Will. 4, c. 66, ss. 5, 26 2 & 3 Will. 4, c. 123 1 Vict. c. 84, s. 1			Solitary confinement, whipping.
making false entries in books of .. .. .	F.	" " s. 6	37 Geo. 3, c. 54, s. 17 (I.) 1 Will. 4, c. 66, ss. 9, 26	L.	3	Not exceed- ing (yrs.)
clerk making and delivering false dividend warrant .. .. .	F.	" " s. 6	37 Geo. 3, c. 54, s. 17 (I.) 1 Will. 4, c. 66, ss. 9, 26	7	3	Not exceed- ing (yrs.)
BANK NOTE. purchasing, receiving or having in possession any forged .. .. .	F.	24 & 25 Vict. c. 98, s. 13	49 Geo. 3, c. 13, s. 2 (I.) 1 Will. 4, c. 66, s. 12 9 & 10 Vict. c. 24, s. 1 38 Geo. 3, c. 53, ss. 3, 4 (I.) 39 Geo. 3, c. 63, s. 13 (I.) 1 Geo. 4, c. 92, ss. 1, 2 1 Will. 4, c. 66, s. 13			Impr. with or without hard labor.
making, using or having in possession any frame, &c., for making paper similar to <del>or making</del> such paper	F.	" " s. 14	49 Geo. 3, c. 13, s. 2 (I.) 1 Will. 4, c. 66, s. 12 9 & 10 Vict. c. 24, s. 1 38 Geo. 3, c. 53, ss. 3, 4 (I.) 39 Geo. 3, c. 63, s. 13 (I.) 1 Geo. 4, c. 92, ss. 1, 2 1 Will. 4, c. 66, s. 13	14	3	Impr. with or without hard labor.

Guilty of larceny.

engraving plate, <del>engraving</del> any such plate for making .. .. .	F.	24 & 25 Vict. c. 98, s. 16	1 Geo. 4, c. 92, s. 1 1 Will. 4, c. 66, ss. 15, 18 16 & 17 Vict. c. 2	14	3	2	s. c.		
engraving any word, &c., resembling any part of .. .. .	F.	"	s. 17						
BANKER, merchant, broker, attorney or agent.									
converting to his own use or benefit any money or security, &c., with which he shall have been intrusted ..	M.	24 & 25 Vict. c. 96, s. 75	7 & 8 Geo. 4, c. 29, ss. 4, 49, 50	7	3	2	s. c.		
converting, &c., with intent to defraud property intrusted for safe custody ..	M.	"	s. 76..						
converting, &c., any power of attorney for sale or transfer .. .. .	M.	"	s. 77..						
making or using any frame for making paper having visible the name of any banker, or making, &c., such paper obliterating, adding to or altering, with intent to defraud, the crossing on a cheque on any banker .. .. .	F.	"	c. 98, s. 18	14	3	2	s. c.		
	F.	"	s. 25..		3	2	s. c.		
			21 & 22 Vict. c. 79, s. 3	L.					
BANKRUPTCY OFFENCES.									
wilfully and corruptly swearing or affirming falsely before a registrar wilfully and corruptly making any declaration for proof of debt, knowing the same, or the statement of account to which it is appended, to be untrue in any material particular .. .. .	M.	24 & 25 Vict. c. 134, s. 54..	12 & 13 Vict. c. 106, s. 25 <sup>4</sup> (unrepealed)						Same as perjury.
	M.	"	s. 145..						



<p>...                  within the like time, knowing his in-                  ability to meet engagements, fraudu-                  lently and to diminish the sum to be                  divided amongst the creditors, mak-                  ing away with, mortgaging, encumber-                  ing or charging any part of property                  after adjudication, concealing from the                  Court or assignee any debt due to or                  from him .. .. .</p>	<p>M.</p>	<p>"</p>	<p>1 &amp; 2 Vict. c. 110, s. 99</p>	<p>3                  with-                  out                  hard                  labor.</p>
<p>...                  omitting property from schedule ..                  after filing petition, with intent to conceal                  the state of affairs, or to defeat the                  object of bankruptcy law; concealing,                  prosecuting or withholding the pro-                  duction of any book, &amp;c. . . .</p>	<p>M.</p>	<p>"</p>	<p>1 &amp; 2 Vict. c. 110, s. 99</p>	<p>..</p>
<p>...                  after filing petition, or within three                  months before adjudication, with in-                  tent to conceal or defeat, &amp;c., parting                  with, concealing, destroying, altering,                  mutilating or falsifying, (or causing                  to be concealed, &amp;c.,) any book, &amp;c.,                  —or making or being privy to the                  making of any false entry, statement                  or omission from any book, &amp;c. . .</p>	<p>M.</p>	<p>"</p>	<p>12 &amp; 13 Vict. c. 106, s. 252</p>	<p>..</p>
<p>...                  within the like time, knowing his in-                  ability to meet engagements, fraudu-                  lently and to diminish the sum to be                  divided amongst the creditors, mak-                  ing away with, mortgaging, encumber-                  ing or charging any part of property                  after adjudication, concealing from the                  Court or assignee any debt due to or                  from him .. .. .</p>	<p>M.</p>	<p>"</p>	<p>12 &amp; 13 Vict. c. 106, s. 252</p>	<p>..</p>
<p>...                  within the like time, knowing his in-                  ability to meet engagements, fraudu-                  lently and to diminish the sum to be                  divided amongst the creditors, mak-                  ing away with, mortgaging, encumber-                  ing or charging any part of property                  after adjudication, concealing from the                  Court or assignee any debt due to or                  from him .. .. .</p>	<p>M.</p>	<p>"</p>	<p>12 &amp; 13 Vict. c. 106, s. 252</p>	<p>..</p>

\* The punishment for this offence is provided by 8 & 9 Vict. c. 113, s. 4, to which the Consolidation Act refers.

Offence.	Felonv or misdemeanour.	Reference to Consolidation Acts.	Reference to previous Acts.	Punishment.		
				Not exceed- ing.	Not less.	Impri. with or without hard labor.
<b>BANKRUPT—continued.</b> under the bankruptcy, or at any meeting of creditors within three months pre- ceding the filing of petition, attempt- ing to account for property by ficti- tious losses or expenses .. .. within three months before the filing of petition, under pretence of carrying on business, obtaining goods on credit with intent to defraud .. .. within the like time, pawning, pledging or disposing of otherwise than bonâ fide any goods obtained on credit and remaining unpaid for .. ..	M.	24 & 25 Vict. c. 134, s. 221 " " " " " " " "	12 & 13 Vict. c. 106, s. 253.. .. ..	.. .. ..	3 with- out hard labor.	Solitary con- finement, whipping.
	M.	24 & 25 Vict. c. 100, s. 61 " " " " s. 62..	9 Geo. 4, c. 31, s. 15 10 Geo. 4, c. 34, s. 18 .. ..	L. 10 10 3	.. 2	.. ..
	M.	24 & 25 Vict. c. 100, s. 57 .. ..	9 Geo. 4, c. 31, s. 22 10 Geo. 4, c. 34, s. 26	7	3 2	2
<b>BESTIALITY</b> .. ..	F.	24 & 25 Vict. c. 100, s. 61 " " " " s. 62..	9 Geo. 4, c. 31, s. 15 10 Geo. 4, c. 34, s. 18 .. ..	L. 10 10 3	.. 2	.. ..
attempt to commit.. ..	M.	24 & 25 Vict. c. 100, s. 57 .. ..	9 Geo. 4, c. 31, s. 22 10 Geo. 4, c. 34, s. 26	7	3 2	..
<b>BIGAMY</b> .. ..	F.	24 & 25 Vict. c. 100, s. 57 .. ..	9 Geo. 4, c. 31, s. 22 10 Geo. 4, c. 34, s. 26	7	3 2	..



<p>to pull or throw down in anywise destroy or to do any injury, with intent and so as thereby to render such bridge, &amp;c., or the highway, railway or canal passing over or under, dangerous or impassable .. ..</p>	<p>F. 24 &amp; 25 Vict. c. 97, s. 33</p>	<p>{ 7 &amp; 8 Geo. 4, c. 30, ss. 13, 27 .. .. 9 Geo. 4, c. 56, ss. 14, 34 }</p>	<p>L.</p>	<p>3</p>	<p>2</p>	<p>S. C. &amp; W.</p>
<p>BROKER. Converting to his own use.—See "Banker."</p>						
<p>BUILDING. To destroy or damage with gunpowder, to murder.—See "Gunpowder."</p>	<p>F. 24 &amp; 25 Vict. c. 97, s. 48</p>	<p>{ 9 &amp; 10 Vict. c. 99, s. 28 17 &amp; 18 Vict. c. 104, s. 414 .. .. }</p>	<p>7</p>	<p>3</p>	<p>2</p>	<p>S. C. &amp; W.</p>
<p>BUOY, or other mark for guidance of seamen. to cut away, cast adrift, remove, alter, deface, sink or destroy .. ..</p>	<p>F. 24 &amp; 25 Vict. c. 96, s. 52</p>	<p>{ 7 Will. 4 &amp; 1 Vict. c. 86, ss. 3, 4, 7 .. .. }</p>	<p>L.</p>	<p>3</p>	<p>2</p>	<p>S. C.</p>
<p>BURGLARY .. .. CANAL. Destroying works of any.—See "Quay" and "Sea Bank."</p>						
<p>CARNALLY KNOWING A GIRL.—See "Girl."</p>						
<p>CATTLE, stealing .. ..</p>	<p>F. 24 &amp; 25 Vict. c. 96, s. 10</p>	<p>{ 7 &amp; 8 Geo. 4, c. 29, s. 25 9 Geo. 4, c. 55, s. 25 2 &amp; 3 Will. 4, c. 62, s. 1 7 Will. 4 &amp; 1 Vict. c. 90, ss. 1, 3 }</p>	<p>14</p>	<p>3</p>	<p>2</p>	<p>S. C.</p>

Offence.	Felonv or Misdemeanor.	Reference to Consolidation Acts.	Reference to previous Acts.	Punishment.		
				Not exceed- ing.	Penal servitude. (Years.)	Impr. with or without hard labor.
<b>CATTLE</b> — <i>continued.</i>						
killing, maiming or wounding .. .. . killing with intent to steal.—See “ Kill- ing.”	F.	24 & 25 Vict. c. 97, s. 40	7 & 8 Geo. 4, c. 30, s. 16 9 Geo. 4, c. 56, s. 17 5 Vict. c. 28, ss. 13, 17, 19 7 Will. 4 & 1 Vict. c. 90, ss. 2, 3 9 & 10 Vict. c. 24, s. 1	14	3	2 s. c.
<b>CHEQUE</b> , obliterating crossing.—See “ Banker.”	M.	24 & 25 Vict. c. 100, s. 27..	.. .. .	3	3	2
<b>CHILD</b> under the age of two years, abandon- ing or exposing, whereby life endan- gered or health injured .. .. . under the age of fourteen years; by force or fraud, decoying, &c., to deprive the parent thereof, or to steal any article, or receiving such child .. .	F.	” ” s. 56 } ” ” }	9 Geo. 4, c. 31, s. 21 10 Geo. 4, c. 34, s. 25	7	3	2 w.
<b>CHLORFORM</b> or other drug. Administering to enable self or another to commit or to assist in committing an indictable	F.	24 & 25 Vict. c. 100, s. 22..	14 & 15 Vict. c. 19, s. 3 ..	L.	3	2

<p><b>CLERGYMAN or other minister.</b> To obstruct in officiating, or to strike or arrest when engaged, or about to engage in duties, or in going to or returning from the performance thereof ..</p>	<p>M. 24 &amp; 25 Vict. c. 100, s. 36</p>	<p>27 Geo. 3, c. 15, s. 5 (1.) 5 Vict. c. 28, ss. 7, 19 40 Geo. 3, c. 96, s. 5 (1.) 5 Geo. 4, c. 25, s. 5 (1.) 9 Geo. 4, c. 31, s. 23 10 Geo. 4, c. 34, s. 27</p>	<p>..</p>	<p>2</p>
<p><b>COAL,</b> stealing from mine.—See "Mine." setting fire to mine of.—See "Arson."</p>	<p>F. 24 &amp; 25 Vict. c. 99, s. 2</p>	<p>2 Will. 4, c. 34, s. 3</p>	<p>L.</p>	<p>2 s. c.</p>
<p><b>COINAGE OFFENCES:</b> <i>As to gold or silver.</i></p>	<p>F. " " " s. 3</p>	<p>" " " s. 4</p>	<p>L.</p>	<p>2 s. c.</p>
<p>to make or counterfeit .. to gild or silver, or by any means wash, case over, or colour any coin resembling or intended to resemble or pass for .. to gild, &amp;c., any piece of silver, copper, coarse gold or silver metal, or mixture of metals, being of fit size and figure to be coined, with intent that same shall be coined into false .. to gild, &amp;c., any copper coin or file or alter same, to make same resemble and pass for .. the like, silver to pass for gold .. to impair, diminish, or lighten, that same may pass current ..</p>	<p>F. " " " s. 4</p>	<p>" " " ss. 5, 19</p>	<p>14</p>	<p>2 s. c.</p>



INDICTABLE OFFENCES.

M.	" " s. 13..	.. ..	.. ..	.. ..	.. ..	1	s. c.
F.	" " s. 14..	2 Will. 4, c. 34, ss. 12, 19 ..	7	3	..	2	s. c.
M.	" " s. 15..	" "	"	..	..	1	s. c.
F.	" " s. 18..	37 Geo. 3, c. 126, s. 2 ..	7	3	..	2	s. c.
F.	" " s. 19..	" " s. 3 ..	7	3	..	2	s. c.
M.	" " s. 20..	" " s. 4 ..	..	..	..	6	s. c.
M.	" " s. 21..	" " "	..	..	..	2	s. c.
F.	" " "	1 Vict. c. 90, s. 5 ..	L.	3	..	2	s. c.

to tender, &c., as or for current any coin not being such, or any medal, &c., of less value .. ..

*As to Copper Coin.*

to make or counterfeit .. ..  
 to make, mend, buy, sell or have in custody or possession, any tool for counterfeiting .. ..  
 to buy, sell, receive, pay or put off any counterfeit for lower value than it imports .. ..  
 to tender, &c., any counterfeit, knowing, &c. .. ..  
 to have in custody or possession three or more counterfeit, knowing, &c., with intent to utter .. ..

*As to Foreign Coin.*

to make or counterfeit gold or silver to bring or receive into United Kingdom any counterfeit gold or silver, knowing, &c. .. ..  
 to tender, utter or put off any counterfeit gold or silver, knowing, &c. .. ..  
 the like, after former conviction of like .. ..  
 the like, after two former convictions of like .. ..

Offence.	Felony or misdemeanor.	Reference to Consolidation Acts.	Reference to previous Acts.	Punishment.			
				Not exceed- ing.	Not less.	Not ex- ceeding (yrs.)	Impr. with or without hard labor. Solitary con- finement. Whipping.
COINAGE OFFENCES—continued. to make or counterfeit copper or other coin of less value than silver ..	M.	24 & 25 Vict. c. 99, s. 22 ..	43 Geo. 3, c. 139, s. 3 ..	..	..	1	..
	M.	" "	" "	7	3	2	s. c.
the like,—second offence ..	M.	" "	" "	..	..	2	s. c.
	M.	" s. 8 ..	" "	..	..	1	..
General. to export, or put on board for export, any counterfeit, knowing, &c. ..	M.	" s. 16..	16 & 17 Vict. c. 102, s. 1 ..	..	..	2	s. c.
	M.	" "	" "	..	..	1	..
to deface gold, silver or copper coin by stamping thereon names or words to make, mend, buy, sell, or have in custody or possession any puncheon, die, mould, &c. upon which there is made or impressed, or which will make the figure, &c. of any gold, silver or foreign coin ..	F.	" s. 24..	2 Will. 4, c. 34, ss. 10, 19 ..	L.	3	2	s. c.
	F.	" "	" "	..	..	..	..
to make, &c. any edger or other tool for making round edges, knowing, &c. to make ..	F.	" "	" "	..	..	..	..



Offence.	Felonv or misdemeanour.	Reference to Consolidation Acts.	Reference to previous Acts.	Punishment.			
				Not exceed- ing.	Not less.	Not ex- ceeding (yrs.)	Impri. with or without hard labor.
Demanding Property. on forged documents by menaces.—See "Menace."	F.	24 & 25 Vict. c. 98, s. 38	38 Geo. 3, c. 53, s. 2 1 Will. 4, c. 66, s. 1	14	3	2	s. c.
Director, member or public officer of any body corporate or public company. fraudulently applying property to his own use .. .. . omitting to make full and true entries, and account of property received.. destroying books, making false entries, or omitting material particulars in accounts .. .. . publishing false statements .. .. .	M. M. M. M.	24 & 25 Vict. c. 96, s. 81.. " " s. 82.. " " s. 83.. " " s. 84..	20 & 21 Vict. c. 54, s. 5 " " s. 6 " " s. 7 " " s. 8	7	3	2	s. c.
Docs, destroying works of.—See "Quay."	F.	24 & 25 Vict. c. 96, s. 28	7 & 8 Geo. 4, c. 29, ss. 4, 23 .. .. . 9 Geo. 4, c. 55, ss. 4, 28	3	3	2	s. c.
Document of Title to Lands. stealing, or for any fraudulent purpose destroying, &c., the whole or part of	F.	24 & 25 Vict. c. 96, s. 28	7 & 8 Geo. 4, c. 29, ss. 4, 23 .. .. . 9 Geo. 4, c. 55, ss. 4, 28	3	3	2	s. c.



<p><b>DOOR-BELLING.</b>—<b>SUMMARY</b> }                      conviction of same offence... }                      having in possession or on premises any }                      stolen dog or skin, knowing, &amp;c., }                      after previous summary conviction }                      thereof... }                      taking money to recover stolen dog .. }</p>	M.	24 & 25 Vict. c. 96, s. 18	5 & 9 Vict. c. 71, s. 3 14 & 15 Vict. c. 92, s. 5	..	..	18 mos.	..
	M.	" " s. 19	8 & 9 Vict. c. 47, s. 3 14 & 15 Vict. c. 92, s. 5	..	..	..	..
	M.	" " s. 20	8 & 9 Vict. c. 47, s. 6	..	..	..	..
<p><b>DRIVING or racing wantonly or furiously, or }                      other wilful misconduct or neglect; to }                      do or cause any bodily harm by .. }</b></p>	M.	24 & 25 Vict. c. 100, s. 35	1 Geo. 4, c. 4	..	..	2	..
<p><b>DROWN, attempt to, with intent to murder .. }</b></p>	F.	24 & 25 Vict. c. 100, s. 14	7 Will. 4 & 1 Vict. c. 85, ss. 3, 8	L.	3	2	s. c.
<p><b>DWELLING-HOUSE. Entering in the night }                      with intent to commit felony .. }                      stealing in.—See "Larceny."                      being found in, by night.—See "House-                      breaking."                      setting fire to.—See "Arson."</b></p>	F.	24 & 25 Vict. c. 96, s. 54	..	7	3	2	s. c.
<p><b>EMBEZZLEMENT.</b>                      by clerk or servant .. .. .</p>	F.	24 & 25 Vict. c. 96, s. 68	7 & 8 Geo. 4, c. 29, ss. 4, 47 9 Geo. 4, c. 55, ss. 4, 40	14	3	2	s. c. & w.
<p>by person in H.M.S., or police constable..</p>	F.	" " s. 70	2 & 3 Will. 4, c. 4, ss. 1, 4, 5 22 & 23 Vict. c. 32, s. 25	14	3	2	..
<p>by Bank of England or Ireland officer ..</p>	F.	" " s. 73	15 Geo. 2, c. 13, s. 12 35 Geo. 3, c. 66, s. 6 37 Geo. 3, c. 46, s. 6 21 & 22 Geo. 3, c. 16, s. 16 (1.) 4 & 5 Vict. c. 56, ss. 1, 4 5 Vict. c. 28, s. 4	L.	3	2	s. c.

Offence.	Felonv or misdemeanour.	Reference to Consolidation Acts.	Reference to previous Acts.	Punishment.			
				Not exceed- ing.	Not less.	Not ex- ceeding (yrs.)	Impri. with or without hard labor.
<p><b>EXCHEQUER BILLS.</b> Forgery of.—See "For- gery," making or having in possession any frame, &amp;c., having thereon any words, &amp;c., peculiar to paper used for and in- tended to imitate .. .. . making or having in possession paper in imitation of the paper used for purchasing, receiving or having in pos- session paper manufactured by Trea- sury for use as .. .. .</p>	F.	<p>24 &amp; 25 Vict. c. 98, s. 9 " " " s. 10 .. " " " s. 11</p>	<p>7 &amp; 8 Geo. 4, c. 28, ss. 8, 9 5 &amp; 6 Vict. c. 66, s. 9 16 &amp; 17 Vict. c. 132, s. 10 Same. 5 &amp; 6 Vict. c. 66, s. 10 16 &amp; 17 Vict. c. 132, s. 11</p>	7	3	2	s. c.
<p><b>EXPOSING A CHILD.</b>—See "Child."</p>	M.			..	..	3	..
<p><b>FACTOR</b> consigning goods on pledge.—See "Agent,"</p>	M.	24 & 25 Vict. c. 96, s. 88	7 & 8 Geo. 4, c. 29, ss. 4, 53 .. .. . 9 Geo. 4, c. 55, s. 46 .. 15 & 16 Will. 4, c. 24, s. 1	3	3	2	s. c.
<p><b>FALSE PRETENCE.</b> obtaining goods, with intent to defraud, } by .. .. . } .. .. . }</p>							

procuring execution of deeds, &c., by.  
—See “Valuable Security.”

**FISH** in any water in land adjoining or be-  
longing to the dwelling-house of any  
person owning the water or having a  
right of fishery. To take or destroy

**FISHPOND** or any water being private pro-  
perty, or in which there is private  
right of fishery.

to cut, &c., the dam, &c., of any, with  
intent to take and destroy fish, or so  
as thereby to cause loss or destruc-  
tion of fish .. .. .  
to put any lime or other noxious mate-  
rial therein, to destroy fish .. .. .

**FIXTURES**, stealing.—See “Larceny.”

**FLOODGATE.**

to open or draw up any floodgate or  
sluice, or to do any other injury or  
mischief to any navigable river or  
canal, with intent and so as thereby  
to obstruct or impede navigation ..  
to cut through, &c., the floodgate or  
dam of any millpond, reservoir or  
pool .. .. .

M.	24 & 25 Vict. c. 96, s. 24 ..	7 & 8 Geo. 4, c. 29, s. 24 }	Fine or imprison- ment at common law.
M.	24 & 25 Vict. c. 97, §. 32	{ 7 & 8 Geo. 4, c. 30, s. 15 9 Geo. 4, c. 56, ss. 16, 34 13 & 14 Vict. c. 88, s. 36 (I.) .. .. . 5 & 6 Vict. c. 106, s. 80 (I.) }	7 3 2 s. c. & w.
F.	24 & 25 Vict. c. 97, s. 31	{ 7 & 8 Geo. 4, c. 30, ss. 12, 27 .. .. . 9 Geo. 4, c. 56, ss. 13, 34 }	7 3 2 s. c. & w.
M.	.. .. . s. 32 ..	Same as fishpond ..	.. .. .

Offence.	Felonv or misdemeanour.	Reference to Consolidation Acts.	Reference to previous Acts.	Punishment.		
				Not exceed- ing.	Penal servitude. (Years.)	Imprisonment with or without hard labor.
FOREIGN BILL. engraving or using such engraving, or altering any paper engraved ..	F.	24 & 25 Vict. c. 98, s. 19	43 Geo. 8, c. 139, ss. 1, 2 1 Will. 4, c. 66, ss. 19, 26	14	3	2 s. c.
FORGERY, or to alter, offer, utter, dispose of, or put off, knowing to be forged.	F.	24 & 25 Vict. c. 98, s. 4	1 Will. 4, c. 66, ss. 8, 26 2 & 3 Will. 4, c. 123, ss. 2, 3 1 Vict. c. 84, s. 1	7		
attestation to power of attorney ..	F.	" " s. 33	12 Geo. 1, c. 32, s. 9	14		
accountant-general's signature ..	F.	" " s. 12	11 Geo. 1, c. 9, s. 6 21 & 22 Geo. 3, c. 16, s. 15 (1.)			
bankruptcy signatures. — See "Bankruptcy."	F.	" " s. 12	1 Will. 4, c. 66, s. 3 2 & 3 Will. 4, c. 123 1 Vict. c. 84, ss. 1, 2, 3 16 & 17 Vict. c. 2 3 Geo. 2, c. 4, s. 1			
bank note, bank bill, bank bill of exchange, or bank post bill ..	F.	" " s. 12	11 Geo. 1, c. 9, s. 6 21 & 22 Geo. 3, c. 16, s. 15 (1.)			



Offence.	Felonv or misdemeanor.	Reference to Consolidation Acta.	Reference to previous Acta.	Punishment.		
				Penal servitude. (Years.)	Imprl. with or without hard labor.	Not exceed- (Yrs.)
<b>FORGERY—continued.</b>						
registry of deeds .. .. .	F.	24 & 25 Vict. c. 98, s. 31	{ 2 & 3 Ann. c. 4, s. 19 6 Ann. c. 35, s. 26 7 Ann. c. 20, s. 15 6 Ann. c. 2, s. 17 (L.) 8 Ann. c. 10, s. 4 (L.) 8 Geo. 1, c. 15, s. 4 (L.) 8 Geo. 2, c. 6, s. 31 13 & 14 Vict. c. 72, s. 62 1 Will. 4, c. 66, s. 20 6 & 7 Will. 4, c. 86, s. 43 7 & 8 Vict. c. 81, s. 75 20 & 21 Vict. c. 71, s. 15 .. .. . .. .. . .. .. . 37 Geo. 3, c. 54, ss. 12, 15 (L.)	14	3	2
register of births, baptisms, marriages, } deaths or burials .. .. .	F.	" " s. 36	.. .. .	L.	3	2
summons, &c. of justice of peace, or re- } cognizances or depositions .. .. .	F.	" " s. 32 ..	.. .. .	3		s. c.
transfer of shares or stock or any power } of attorney to transfer .. .. .	F.	" " s. 2	.. .. .	L.		
undertaking, warrant, order, authority } .. .. .	F.	" " s. 23	.. .. .	L.		

			L.	Z	S. C.
FRAUDULENT TRUSTEES, &c.—See "Trustee," "Banker," "Director."		1 Will. 4, c. 66, s. 3			
FRUIT, plant, root or vegetable production growing in any garden, orchard, &c. to steal, or to destroy or damage with intent to steal (having been before summarily convicted thereof) ..	F.	24 & 25 Vict. c. 96, s. 36	3	2	s. c. & w.
to destroy, or to damage with intent to destroy (having been before summarily convicted thereof) ..	F.	" c. 97, s. 23	3	2	s. c.
FURIOUS DRIVING.—See "Driving."					
GIRL under the age of twenty-one years. Procuring by false pretences to have illicit carnal connection ..	M.	24 & 25 Vict. c. 100, s. 49	..	2	
under the age of ten years. Carnally knowing and abusing ..	F.	" s. 50	L.	2	
above the age of ten years and under twelve. Carnally knowing and abusing ..	M.	" s. 51	3	2	
under the age of twelve years. Attempting to have carnal knowledge of ..	M.	" s. 52	..	2	
GUNPOWDER or other explosive substance. destroying or damaging any building, with intent to murder, by the explosion of ..	F.	24 & 25 Vict. c. 100, s. 12	L.	2	s. c.

Same as simple larceny.

7 & 8 Geo. 4, c. 29, s. 42  
14 & 15 Vict. c. 92, s. 5

7 & 8 Geo. 4, c. 30, s. 21  
14 & 15 Vict. c. 92, s. 3

12 & 13 Vict. c. 76, s. 1

9 Geo. 4, c. 31, s. 17  
10 Geo. 4, c. 34, s. 20  
4 & 5 Vict. c. 56, s. 3  
9 & 10 Vict. c. 24

9 Geo. 4, c. 31, s. 17  
10 Geo. 4, c. 34, s. 20  
5 Vict. Sess. 2, c. 28, s. 14  
14 & 15 Vict. c. 100, s. 29

9 & 10 Vict. c. 25, ss. 2, 5, 9, 11

Offence.	Felony or Misdemeanor.	Reference to Consolidation Acts.	Reference to previous Acts.	Punishment.			
				Not exceeding.	Penal servitude. (Years.)	Imprisonment with or without hard labor.	Not exceeding (yrs.) Solitary confinement Whipping
<p><b>GUNPOWDER—continued.</b> to burn, maim, disfigure, disable or do any grievous bodily harm by the explosion of .. .. . to cause to explode,—or to send or deliver, or cause to be taken or received, any explosive substance or other dangerous or noxious thing,—or to put or lay at any place, or to cast, throw or otherwise apply to any person, any corrosive fluid, or any destructive or explosive substance, with intent to burn, &amp;c. to place or throw in, into, upon, against or near any building or ship—to do any bodily injury .. .. . the like, to destroy or damage .. .. . making or having in possession any gunpowder or other explosive substance, or any dangerous or noxious thing, or any machine, &amp;c., with intention to enable another</p>	F.	F. 24 & 25 Vict. c. 100, s. 28 {	9 & 10 Vict. c. 25, ss. 3, 5, 11 .. .. .	Not exceeding.	3	2	s. c. & w.
	F.	" " s. 29 {	7 Will. 4 & 1 Vict. c. 85, s. 5 .. .. . 9 & 10 Vict. c. 25, ss. 4, 5, 9, 11.. .. .	L.	3	2	s. c. & w.
	F.	" " s. 30 {	9 & 10 Vict. c. 25, ss. 6, 9, 11 .. .. .	14	3	2	s. c. & w.
	F.	" " c. 97, s. 10.. {	9 & 10 Vict. c. 25, s. 6	..	..	2	s. c. & w.
	M.	{ 24 & 25 Vict. c. 97, s. 54 } { " " c. 100, s. 64 }	9 & 10 Vict. c. 25, ss. 8, 9, 11.. .. .	..	..	2	s. c. & w.



	F.	c. 97, s. 9	2, 5, 9, 11	L.	3	2	S. C. & W.
therein, or any building, whereby life endangered .. .. .							
<b>HARBOUR.</b> Destroying works of. — See "QUAY."							
<b>HARE OR RABBIT</b> in any warren or ground used for breeding. To take or kill, between the expiration of the first hour after sunset and the beginning of the last hour before sunrise .. .. .	M.	24 & 25 Vict. c. 96, s. 17 ..	7 & 8 Geo. 4, c. 29, s. 30				Fine or imprisonment at common law.
<b>HOP-BINDS.</b> Cutting or destroying .. .. .	F.	24 & 25 Vict. c. 97, s. 19	{ 7 & 8 Geo. 4, c. 30, s. 18 7 Will. 4 & 1 Vict. c. 90, ss. 2, 3 9 & 10 Vict. c. 24, s. 1 7 & 8 Geo. 4, c. 29, s. 25	14	3	2	s. c. & w.
<b>HORSE STEALING</b> .. .. . "Cattle," "Killing."	F.	24 & 25 Vict. c. 96, s. 10	{ 9 Geo. 4, c. 55, s. 25 2 & 3 Will. 4, c. 62, s. 1 1 Vict. c. 90, ss. 1, 3 7 & 8 Geo. 4, c. 29, ss. 12, 15	14	3	2	s. c.
<b>HOUSEBREAKING.</b> and committing any felony therein (same as to school-house, shop, warehouse, counting-house.)	F.	24 & 25 Vict. c. 96, s. 56	{ 9 Geo. 4, c. 55, ss. 12, 15 3 & 4 Will. 4, c. 44, ss. 1, 2 7 Will. 4 & 1 Vict. c. 90, ss. 2, 3	14	3	2	s. c.
with intent to commit felony (same as to church, chapel, meeting-house, curtilage, school-house, shop, warehouse, counting-house.)	F.	" " s. 57 ..	.. .. .	7	3	2	s. c.

Offence.	Felony or misdemeanor.	Reference to Consolidation Acts.	Reference to previous Acts.	Punishment.			
				Not exceeding.	Not less.	Not exceeding (yrs.)	Imprisonment or without hard labor.
<p>HOUSEBREAKING—<i>continued.</i></p> <p>being found by night armed with intent to commit .. .. .</p> <p>being found by night having in possession any picklock key, crow, jack, bit or other implement of .. .. .</p> <p>being found by night having face blackened, or otherwise disfigured, with intent to commit felony .. .. .</p> <p>being found by night in any dwelling-house or other building with intent to commit felony .. .. .</p> <p>being convicted of any such misdemeanor as above after previous conviction either for felony or such misdemeanor .. .. .</p>	<p>M.</p> <p>M. 24 &amp; 25 Vict. c. 96, s. 58 {</p> <p>13 .. .. .</p> <p>14 &amp; 15 Vict. c. 19, ss. 1, {</p> <p>13 .. .. .</p> <p>M.</p> <p>" " s. 59 ..</p>	<p>Reference to previous Acts.</p>	<p>Not exceeding.</p> <p>Not less.</p> <p>Not exceeding (yrs.)</p>	<p>3</p> <p>3</p> <p>2</p>	<p>3</p> <p>3</p> <p>2</p>	<p>Not exceeding.</p> <p>Not less.</p> <p>Not exceeding (yrs.)</p> <p>Softly confinement, whipping</p>	
<p>IMPEDING in endeavour to save life from shipwreck.—See "Shipwreck."</p>	<p>M.</p>	<p>" " s. 59 ..</p>	<p>Reference to previous Acts.</p>	<p>Not exceeding.</p> <p>Not less.</p> <p>Not exceeding (yrs.)</p>	<p>10</p> <p>3</p> <p>2</p>	<p>Not exceeding.</p> <p>Not less.</p> <p>Not exceeding (yrs.)</p> <p>Softly confinement, whipping</p>	

KILLING any animal <del>or</del> the carcase, skin, or any part deer.—See "Deer."	F. 24 & 25 Vict. c. 96, s. 11	2 & 3 Will. 4, c. 62, s. 1 7 Will. 4 & 1 Vict. c. 90, ss. 1, 3	Same as for stealing the same.
LARCENY, SIMPLE, or any felony punishable like simple larceny	F. 24 & 25 Vict. c. 96, s. 4	7 & 8 Geo. 4, c. 29, ss. 3, 4 9 Geo. 4, c. 55, ss. 3, 4 12 & 13 Vict. c. 11, s. 1	3 2 s. c. & w.
" after previous conviction of felony	F. " s. 7	7 & 8 Geo. 4, c. 28, s. 11 9 Geo. 4, c. 54, s. 21 16 & 17 Vict. c. 99, s. 12	10
" or any felony punishable like S.L. after previous conviction of any indictable misdemeanor punishable under <i>this</i> act	F. " s. 8	.. .. .	7 2 s. c. & w.
" or any felony punishable like S.L. after two summary convictions	F. " s. 9	12 & 13 Vict. c. 11, s. 3	7
of fixtures	F. " s. 31	7 & 8 Geo. 4, c. 29, ss. 4, 44 9 Geo. 4, c. 55, s. 37	Same as simple larceny.
from the person	F. " s. 40	7 Will. 4 & 1 Vict. c. 87, ss. 5, 10	14 3 2 s. c.
in dwelling-house, to the value of 5 <i>l.</i>	F. " s. 60	7 & 8 Geo. 4, c. 29, s. 12 9 Geo. 4, c. 55, ss. 12, 13 7 Will. 4 & 1 Vict. c. 90, ss. 1, 3	14 3 2 s. c.
in dwelling-house, and by menaces or threat putting in bodily fear	F. " s. 61	7 Will. 4 & 1 Vict. c. 86, ss. 5, 7	14 3 2 s. c.

INDICTABLE OFFENCES.

Offence.	Felonv or misdemeanour.	Reference to Consolidation Acts.	Reference to previous Acts.	Punishment.		
				Not exceed- ing.	Penal servitude. (Years.)	Imprisonment with or without hard labor.
<b>LARCENY—continued.</b>						
of goods in process of manufacture to the value of ten shillings .. }	F.	24 & 25 Vict. c. 96, s. 62	7 & 8 Geo. 4, c. 29, s. 16 9 Geo. 4, c. 55, s. 16 7 Will. 4 & 1 Vict. c. 90, ss. 2, 3	14	3	2 s. c.
in vessel, port, river, dock, wharf ..	F.	" " s. 63	7 & 8 Geo. 4, c. 29, s. 17 9 Geo. 4, c. 55, s. 17 7 Will. 4 & 1 Vict. c. 90, ss. 2, 3	14	3	2 s. c.
from ship in distress ..	F.	" " s. 64	7 Will. 4 & 1 Vict. c. 97, ss. 8, 10	14	3	2 s. c.
by person in H.M.S., or police constable ..	F.	" " s. 69	.. ..	14	3	2 s. c.
by clerk or servant ..	F.	" " s. 67	7 & 8 Geo. 4, c. 29, ss. 4, 46 9 Geo. 4, c. 55, ss. 4, 39	14	3	2 s. c. & w.
by tenant or lodger ..	F.	" " s. 74	7 & 8 Geo. 4, c. 29, ss. 4, 45 9 Geo. 4, c. 55, ss. 4, 38 12 & 13 Vict. c. 11, s. 2	14	3	2 s. c. & w.
" if value exceed 5 <i>l.</i> ..	F.	" " "	" " "	7	3	2 s. c. & w.
LETTER threatening to kill or murder; to send, deliver, utter, or directly or indirectly cause, to be received, know-	F.	24 & 25 Vict. c. 100, s. 16	4 Geo. 4, c. 54, s. 3 10 & 11 Vict. c. 68, s. 1	10	3	2 s. c. & w.



Offence.	Felony or misdemeanour.	Reference to Consolidation Acts.	Reference to previous Acts.	Punishment.			
				Not exceeding (Years.)	Not less.	Not exceeding (yrs.)	Imprisonment or without hard labor.
<p><b>MAN-TRAP.</b>—See “Spring-gun.”</p> <p><b>MANUFACTURE</b>, stealing goods in process of.—See “Larceny.”</p> <p>destroying or damaging goods in process of .. .. .</p> <p>destroying looms, &amp;c.—See “Machinery.”</p> <p><b>MEMBER</b> of public company, fraud by.—See “Director.”</p> <p><b>MENACES</b> or by force. Demanding property with intent to steal, with .. .. .</p> <p>larceny in dwelling-house with.—See “Larceny.”</p> <p><b>MERCHANT</b> converting to his own use.—See “Banker.”</p> <p><b>MINE.</b> To steal, or sever with intent to steal the ore of any metal or any coal from .. .. .</p>	<p>F.</p> <p>F.</p> <p>F.</p> <p>F.</p>	<p>24 &amp; 25 Vict. c. 97, s. 14</p> <p>24 &amp; 25 Vict. c. 96, s. 45</p> <p>24 &amp; 25 Vict. c. 96, s. 38</p>	<p>7 &amp; 8 Geo. 4, c. 30, ss. 3, 27</p> <p>9 Geo. 4, c. 56, ss. 3, 34</p> <p>7 Will. 4 &amp; 1 Vict. c. 87, ss. 7, 10</p> <p>7 &amp; 8 Geo. 4, c. 29, ss. 4, 37</p> <p>9 Geo. 4, c. 55, s. 30</p>	<p>L.</p> <p>3</p> <p>3</p> <p>3</p>	<p>2</p> <p>2</p> <p>2</p> <p>2</p>	<p>S. C. &amp; W.</p> <p>S. C.</p> <p>S. C.</p> <p>S. C.</p>	



Offence.	Felonv or misdemeanor.	Reference to Consolidation Acts.	Reference to previous Acts.	Punishment.		
				Penal servitude. (Years.)	Impr. with or without hard labor.	Not exceed- ing.
<p><b>NAVIGATION.</b> Obstructing.—See "Flood-gate."                      Destroying buoys.—See "Buoy."</p>						
<p><b>OFFICER.</b>                      to assault, resist or wilfully obstruct in the due execution of his duty . . .                      of any public company. Fraud by.—See "Director."</p>	M.	24 & 25 Vict. c. 100, s. 38 }	9 Geo. 4, c. 31, s. 25 } 10 Geo. 4, c. 34, s. 31 }	..	2	
<p><b>ORE, stealing.</b>—See "Mine."</p>						
<p><b>OYSTERS, or oyster brood.</b>                      to steal from any oyster bed, laying or fishery, being property of another, and sufficiently marked out or known as such . . . . .                      to use any dredge, &amp;c., within the limits of any oyster bed, &amp;c., for the purpose of taking . . . . .                      to drag upon the ground or soil of any</p>	F.    M.	24 & 25 Vict. c. 96, s. 26 }   " " " " }	7 & 8 Geo. 4, c. 29, ss. 4, 36 } 5 & 6 Vict. c. 106, ss. 11, 12 } 8 & 9 Vict. c. 108, s. 18 } 9 10 Vict. c. 114 } 13 & 14 Vict. c. 88, s. 42 }	..	Same as simple larceny.	3 s. c. mths.



PERSON, <del>the owner of</del> Larceny.	F.	24 & 25 Vict. c. 98, s. 3	{ 1 Will. 4, c. 66, ss. 6, 7, 26 .. .. 2 & 3 Will. 4, c. 123, ss. 2, 3 .. .. 1 Vict. c. 84, s. 1 .. ..	L.	3	2	s. c.	
								PERSONATING the owner of shares or stock ..
PLANT, stealing any.—See "Fruit."								
POISON,	F.	24 & 25 Vict. c. 100, s. 11	{ 7 Will. 4 & 1 Vict. c. 85, s. 2 .. .. 7 Will. 4 & 1 Vict. c. 85, ss. 3, 8 .. .. 23 Vict. c. 8 .. ..	L.	3	2	s. c.	
								to administer, with intent to murder
								to attempt to administer, with intent to murder
								to administer, so as to endanger life or inflict grievous bodily harm
to administer, with intent to injure, } aggrieve or annoy .. .. }	M.	"	"	"	3	3	2	
POLICE, larceny by.—See "Larceny." embezzlement by.—See "Embezzlement."								
PORT, destroying works of any.—See "Quay."								
PREVENTING in endeavour to save life from shipwreck.—See "Shipwreck."								
PRINCIPAL IN SECOND DEGREE and every accessory before the fact in felony under these acts .. .. }	..	{ 24 & 25 Vict. c. 96, s. 98 { " c. 97, s. 56 { " c. 98, s. 49 .. { " c. 99, s. 35 .. { " c. 100, s. 67 {	{ 7 & 8 Geo. 4, c. 29, s. 61 9 Geo. 4, c. 55, s. 54 7 & 8 Geo. 4, c. 30, s. 26 9 Geo. 4, c. 56, s. 33 1 Will. 4, c. 66, s. 25 2 Will. 4, c. 34, s. 18 9 Geo. 4, c. 31, ss. 3, 31 10 Geo. 4, c. 34, ss. 3, 40	Same as principal in first degree.				
								..
								..
								..
								..

Offence.	Felony or misdemeanour.	Reference to Consolidation Acts.	Reference to previous Acts.	Punishment.			
				Not exceed- ing.	Not less.	Impr. with or without hard labor.	Solitary con- finement, whipping.
<p><b>PROCURATION.</b> drawing or uttering any bill of ex- change, without authority, by .. }</p> <p><b>PUBLIC SERVICE.</b> larceny or embezzlement by any person employed in.—See "Larceny" and "Embezzlement."</p> <p><b>QUAY, wharf, jetty, lock, sluice, floodgate, weir, tunnel, towing path, drain, watercourse or other work belonging to any port, dock, harbour, reservoir, river or canal.</b> to throw, break or cut down, level, undermine or otherwise destroy any</p> <p><b>RABBIT.</b> To take or kill.—See "Hare."</p> <p><b>RACING.</b> Causing bodily harm by.—See "Driving."</p>	<p>F. 24 &amp; 25 Vict. c. 98, s. 24 ..</p> <p>F. 24 &amp; 25 Vict. c. 97, s. 30</p>	<p>.. .. .</p> <p>7 &amp; 8 Geo. 4, c. 30, ss. 12, 27 .. } 9 Geo. 4, c. 56, ss. 12, 34 .. }</p>	<p>14</p> <p>3</p> <p>2</p> <p>2</p>	<p>Not exceed- ing.</p> <p>Not less.</p> <p>Impr. with or without hard labor.</p> <p>Solitary con- finement, whipping.</p>	<p>s. c.</p> <p>s. c.</p> <p>s. c.</p> <p>s. c. &amp; w.</p>		



Offence.	Felonv or misdemeanor.	Reference to Consolidation Acts.	Reference to previous Acts.	Punishment.		
				Not exceed- ing.	Not less.	Imprisonment with or without hard labor.
<b>RAILWAY—continued.</b>						
* to cut, &c., any telegraph wire, &c., or to prevent or obstruct the sending of any communication thereby .. setting fire to buildings.—See "Arson."	M.	24 & 25 Vict. c. 97, s. 37 ..	.. .. .	..	..	2
<b>RAPE</b> .. .. .	F.	" c. 100, s. 48	{ 9 Geo. 4, c. 31, s. 16 10 Geo. 4, c. 34, s. 19 4 & 5 Vict. c. 56, s. 3 9 & 10 Vict. c. 24	L.	3	2
<b>RECEIVER of stolen, &amp;c., goods, in felony</b> ..	F.	24 & 25 Vict. c. 96, s. 91	{ 7 & 8 Geo. 4, c. 29, ss. 4, 54 .. .. . 9 Geo. 4, c. 55, s. 47	14	3	2
" " in misdemeanor..	M.	" s. 95	{ 7 & 8 Geo. 4, c. 29, ss. 4, 55 .. .. . 9 Geo. 4, c. 55, s. 48 20 & 21 Vict. c. 54, s. 9	7	3	2
<b>RECOGNIZANCE, cognovit, &amp;c. to acknowledge any, without lawful excuse, in the name of another</b> ..	F.	24 & 25 Vict. c. 98, s. 34 ..	1 Will. 4, c. 66, ss. 11, 26 ..	7	3	2
<b>RECORDS, and all original documents of law</b>						Solitary confinement with or without whipping.

INDICTABLE OFFENCES.

			3	2	s. c.	
take, from place of deposit or from person having custody, or to cancel, obliterate, injure or destroy forging.—See "Forgery."	F.	24 & 25 Vict. c. 96, s. 30	21 .. .. . 9 Geo. 4, c. 55, ss. 4, 21	3	2	s. c.
RESERVOIR. Destroying works of.—See "Quay," "Sea-bank," "Floodgate."						
REWARD for helping to recover stolen property—to take any.. .. .	F.	24 & 25 Vict. c. 96, s. 101	7 & 8 Geo. 4, c. 29, s. 58 9 Geo. 4, c. 55, s. 51	7	2	s. c. & w. if un- der 18.
RIOTERS. demolishing, pulling down or destroying buildings .. .. .	F.	24 & 25 Vict. c. 97, s. 11	23 & 24 Geo. 3, c. 20, ss. 7, 8 (1.) 27 Geo. 3, c. 15, s. 5 (1.) 40 Geo. 3, c. 96, s. 5 (1.) 7 & 8 Geo. 4, c. 30, s. 8 4 & 5 Vict. c. 56, ss. 2, 4 5 Vict. c. 28, s. 7 6 & 7 Vict. c. 10	L.	2	s. c.
injuring or damaging buildings .. .. .	M.	" " s. 12..	1 & 2 Will. 4, c. 44, s. 2 ..	7	2	
RIVER. Destroying works of any.—See "Quay," "Sea-bank."						
ROBBERY .. .. .	F.	24 & 25 Vict. c. 96, s. 40	7 Will. 4 & 1 Vict. c. 87, ss. 5, 10 .. .. .	14	2	s. c.
or assault with intent, being armed or assault with intent, with one or more	F.	" " s. 43..	" " ss. 2, 3, 10..	L.	2	s. c.

\* This offence may be heard and determined summarily at the discretion of the justice.—See title in Table of Summary Convictions.

INDICTABLE OFFENCES.

Offence.	Felonv or misdemeanor.	Reference to Consolidation Acts.	Reference to previous Acts.	Punishment.			
				Not exceed- ing.	Not less.	Impr. with or without hard labor.	
ROBBERY— <i>continued</i> . and wounding at time of and immedi- ately before.. .. assault with intent to rob .. .. Root. Stealing any.—See "Fruit."	F. F.	24 & 25 Vict. c. 96, s. 43 .. " " s. 42	{ 7 Will. 4 & 1 Vict. c. } 87, ss. 2, 3, 10 .. } " " ss. 6, 10 .. }	L. 3	3 3	2 2	s. c. s. c.
SACRILEGE .. ..	F.	24 & 25 Vict. c. 96, s. 50	{ 7 & 8 Geo. 4, c. 29, s. 10 } 9 Geo. 4, c. 55, s. 10 } 5 & 6 Will. 4, c. 81 } 6 & 7 Will. 4, c. 4 }	L.	3	2	s. c.
SCIENCE. Destroying any work of.—See "Art."							
SEA-BANK, or sea wall, or the bank, dam or wall of any river, canal, drain, reser- voir, pool or marsh. to break down, &c., whereby any land or building may be overflowed or da- maged .. ..	F.	24 & 25 Vict. c. 97, s. 30	{ 7 & 8 Geo. 4, c. 30, ss. 12, } 27 .. } 9 Geo. 4, c. 56, ss. 12, 34 } 7 & 8 Geo. 4, c. 30, ss. 12, } 27 .. } 9 Geo. 4, c. 56, ss. 13, } 34 .. }	L.	3	2	s. c. & w.
to cut off, draw up or remove any piles, chalk, &c., for securing any .. ..	F.	" " s. 31	{ 9 Geo. 4, c. 56, ss. 13, } 34 .. }	7	3	2	s. c. & w.

"Apprentice."									
larceny by.—See "Larceny."									
SHEEP STEALING	F.	24 & 25 Vict. c. 96, s. 10	{ 7 & 8 Geo. 4, c. 29, s. 25 9 Geo. 4, c. 55, s. 25 2 & 3 Will. 4, c. 62, s. 1 7 Will. 4 & 1 Vict. c. 90, ss. 1, 3 .. .. .	14	3	2	s. C.		
killing, &c.—See "Cattle," "Killing."									
SHIP.									
to set fire to, cast away or destroy ..	F.	24 & 25 Vict. c. 97, s. 42	{ 7 Will. 4 & 1 Vict. c. 89, ss. 4, 6, 12 .. .. .	L.	3	2	s. C. & W.		
the like, with intent to murder ..	F.	" c. 100, s. 13 ..	{ 7 Will. 4 & 1 Vict. c. 89, s. 4 ..	L.	3	2	s. C.		
the like, with intent to prejudice the owner of ship or goods, or under- writer .. .. .	F.	" c. 97, s. 43	{ 7 Will. 4 & 1 Vict. c. 89, ss. 6, 12 .. .. .	L.	3	2	s. C. & W.		
by any overt act, attempting to set fire to, cast away or destroy .. .. .	F.	" " s. 44	{ 9 & 10 Vict. c. 25, ss. 7, 9 .. .. .						
placing or throwing gunpowder or other explosive substance in, into, upon, against or near, with intent to destroy or damage .. .. .	F.	" " s. 45	{ 9 & 10 Vict. c. 25, ss. 6, 9, 11 .. .. .	14	3	2	s. C. & W.		
the like, with intent to do any bodily injury .. .. .	F.	" c. 100, s. 30	{ 9 & 10 Vict. c. 25, ss. 6, 9, 11 .. .. .						
damaging otherwise than by fire, &c., with intent to destroy or render use- less .. .. .	F.	" c. 97, s. 46	{ 7 & 8 Geo. 4, c. 30, ss. 10, 27 .. .. . 9 Geo. 4, c. 56, s. 10	7	3	2	s. C. & W.		
masking, altering or removing any light or signal, or exhibiting false light or signal, with intent to bring any ship into danger, or doing anything tend- ing to immediate loss or destruction of any ship .. .. .	F.	" " s. 47	{ 7 Will. 4 & 1 Vict. c. 89, s. 5 .. .. .	L.	3	2	s. C. & W.		

INDICTABLE OFFENCES.

Offence.	Felonv or misdemeanor.	Reference to Consolidation Acts.	Reference to previous Acts.	Punishment.		
				Not exceed- ing.	Penal servitude. (Years.)	Impr. with or without hard labor.
SHIPWRECK. to prevent or impede any person in en- deavour to save life from .. .. to assault any magistrate or officer pre- serving vessel or effects .. .. to destroy any part of vessel or goods .. to steal from.—See "Larceny."	F.	24 & 25 Vict. c. 100, s. 17	7 Will. 4 & 1 Vict. c. 89, ss. 7, 12 .. ..	L.	3	2 s. c.
	M.	" s. 37	9 Geo. 4, c. 31, s. 24	7	3	2
	F.	" c. 97, s. 49	10 Geo. 4, c. 34, s. 30	14	3	2 s. c.
			7 Will. 4 & 1 Vict. c. 89, ss. 8, 12 .. ..			
			24 & 25 Vict. c. 100, s. 14	7 Will. 4 & 1 Vict. c. 85, ss. 3, 8 .. ..	L.	3
SHOOTING at or attempting to discharge any loaded arms at any person with in- tent to murder .. .. the like, with intent to maim, disfigure, disable, do grievous bodily harm, or resist or prevent lawful apprehension or detainer .. ..	F.	" s. 18	7 Will. 4 & 1 Vict. c. 85, ss. 4, 8 .. ..			
SHOP-BREAKING.—See "House-breaking."						
SHRUB. Stealing any.—See "Tree."						

SHRUB. Stealing any.—See "Tree."  
SHRUB. Stealing any.—See "Tree."



attempt to commit .. .. .	M.	..	10 Geo. 4, c. 34, s. 18	L.	10	2
assault with intent to commit .. .. .	M.	" s. 62..	.. .. .	L.	10	2
SPRING-GUN, man-trap or other engine calculated to destroy human life or inflict grievous bodily harm.	M.	24 & 25 Vict. c. 100, s. 31	7 & 8 Geo. 4, c. 18, ss. 1 —4 .. .. .	L.	3	2
to set or place (or cause, &c.) with intent that or whereby the same may destroy or inflict grievous bodily harm upon a trespasser or other person..	M.	24 & 25 Vict. c. 100, s. 31	7 & 8 Geo. 4, c. 18, ss. 1 —4 .. .. .	L.	3	2
STRANGLE } attempting to, with intent to or SUFFOCATE } murder .. .. .	F.	24 & 25 Vict. c. 100, s. 14	7 Will. 4 & 1 Vict. c. 85, ss. 3, 8 .. .. .	L.	3	2 s. c.
attempting to, or by any means calculated to choke, suffocate or strangle, attempting to render insensible, unconscious or incapable of resistance, with intent to enable self or another to commit or to assist in committing any indictable offence .. .. .	F.	" s. 21..	.. .. .	L.	3	2
TELEGRAPH. Cutting wires, &c. — See "Railway."						
TENANT. Larceny by.—See "Larceny." pulling down or demolishing house or fixtures .. .. .	M.	24 & 25 Vict. c. 97, s. 13 ..	9 Geo. 4, c. 56, s. 24			Fine or imprisonment at common law.
THREAT to accuse of infamous crime.—See "Accuse."						

Offence.	Felonv or misdemeanor.	Reference to Consolidation Acts.	Reference to previous Acts.	Punishment.			
				Penal servitude. (Years.)	Impr. with or without hard labor.	Not exceeding (yrs.)	
<p>TREE, sapling, shrub or underwood, growing in any park, pleasure ground, garden, orchard, avenue or ground adjoining or belonging to a dwelling-house,—the value exceeding £1.</p> <p>to steal or cut, break, root up or otherwise destroy or damage with intent to steal..</p> <p>to cut, break, root up or otherwise destroy or damage ..</p> <p>growing elsewhere than before mentioned,—the value exceeding £5.</p> <p>to steal, &amp;c. . . . .</p> <p>to cut, break, root up, &amp;c... ..</p> <p>wheresoever growing,—the value amounting to <del>stealing</del> at least, and after two</p>	F.	24 & 25 Vict. c. 96, s. 32	7 & 8 Geo. 4, c. 29, ss. 4, 38 .. 9 Geo. 4, c. 55, s. 31 ..	Not exceeding	Same as simple larceny.	Not exceeding (yrs.)	
	F.	" c. 97, s. 20	7 & 8 Geo. 4, c. 30, ss. 19, 27 .. 9 Geo. 4, c. 56, s. 19 ..	3	3	s. c. & w.	
	F.	" c. 96, s. 32	7 & 8 Geo. 4, c. 29, ss. 4, 38 .. 9 Geo. 4, c. 55, s. 31 ..	Same as simple larceny.	3	2	s. c. & w.
	F.	" c. 97, s. 21	7 & 8 Geo. 4, c. 30, s. 19 9 Geo. 4, c. 56, s. 19	3	3	2	s. c. & w.



Offence.	Felonv or misdemeanor.	Reference to Consolidation Acts.	Reference to previous Acts.	Punishment.			
				Not exceed- ing.	Not less.	Impri. with or without hard labor.	Impri. with or without hard labor. Solitary con- finement whipping.
WAREHOUSE-BREAKING. — See "House-breaking."							
WHARF. Destroying.—See "Quay."							
WILL or CODICIL. forging.—See "Forgery." to steal, or for any fraudulent purpose to destroy, cancel, obliterate or conceal, the whole or any part of any ..	F.	24 & 25 Vict. c. 96, s. 29	7 & 8 Geo. 4, c. 29, ss. 4, 22, 24 .. 9 Geo. 4, c. 55, ss. 4, 22, 24 .. ..	L.	3	2	s. c.
WOUNDING or causing grievous bodily harm with intent to murder .. .. or causing grievous bodily harm with intent to maim, disfigure, disable, do grievous bodily harm, or resist or prevent lawful apprehension and de- tainer .. .. or inflicting any grievous bodily harm	F.	24 & 25 Vict. c. 100, s. 11	7 Will. 4 & 1 Vict. c. 85, s. 2 .. ..	L.	3	2	s. c.
	F.	" " s. 18	7 Will. 4 & 1 Vict. c. 85, ss. 4, 8 .. ..				
	M.	" " s. 20	10 Geo. 4, c. 84, s. 29	3	3	2	

**A Table**  
**OF**  
**SUMMARY CONVICTIONS**  
**UNDER THE**  
**NEW CRIMINAL LAW CONSOLIDATION ACTS.**

FINES MARKED WITH THE LETTER V. ARE OVER AND ABOVE THE VALUE OF THE PROPERTY STOLEN OR THE AMOUNT OF INJURY DONE.

Offence.	Reference to Consolidation Acts.	Reference to previous Acts.	Fine not exceeding	or { Imprisonment not exceeding.
<p>ABETTOR in any offence punishable on summary conviction under the "Larceny" and "Malicious Injuries to Property" Acts .. .. .</p>	<p>24 &amp; 25 Vict. c. 96, s. 99 { " " c. 97, s. 63 .. . {</p>	<p>7 &amp; 8 Geo. 4, c. 29, s. 62 14 &amp; 15 Vict. c. 93, s. 22 7 &amp; 8 Geo. 4, c. 30, s. 31</p>	<p>Same as principal offender.</p>	<p>{</p>
<p>ANIMALS, killing, &amp;c.—See "Bird," "Dog."</p>				
<p>ASSAULTS. To beat, or use any violence or threat of violence to any person, with intent to deter or hinder him from buying, selling or otherwise disposing of, or to compel him to buy, &amp;c. any wheat or other grain, flour, meal, malt or potatoes in any market or other place; or to beat, &amp;c. any person having care or charge of any wheat, &amp;c. with intent to stop the conveyance of same .. .. .</p>	<p>24 &amp; 25 Vict. c. 100, s. 39 {</p>	<p>9 Geo. 4, c. 31, s. 26 14 &amp; 15 Vict. c. 92, s. 2</p>	<p>..</p>	<p>{ 3 mos. and hard labor.</p>
<p>to hinder or prevent any seaman, keel- man or cooper from working at or exer-</p>				<p>{ 3 mos. and</p>

			without hard la- bour.
aggravated assault or battery upon any male child whose age shall not exceed fourteen years, or upon any female (b)	24 & 25 Vict. c. 100, s. 43..	14 & 15 Vict. c. 92, s. 2	6 mos. with or without hard labour.
BIRD, beast or other animal kept in a state of confinement or for domestic purpose, not being the subject of larceny at common law. To steal, or kill with intent to steal .. .. .	24 & 25 Vict. c. 96, s. 21	{ 7 & 8 Geo. 4, c. 29, s. 31 14 & 15 Vict. c. 92, s. 5	{ £20 including costs, and impr. not exc. six mos. in default of payment.
second offence .. .. .	" " "	" " "	6 mos. with or without hard labour.
having in possession any part of such stolen bird, &c., knowing, &c. ..	" " s. 22	{ 7 & 8 Geo. 4, c. 29, s. 32 8 & 9 Vict. c. 47, s. 3 14 & 15 Vict. c. 92, s. 5	{ £20, V. Same as for stealing, but fine only for first offence.

(a) Except an assault in pursuance of any trade conspiracy or combination which is indictable under sect. 41.

And if the justices shall find the assault to have been accompanied by any attempt to commit felony, or shall be of opinion that the same is a fit subject for prosecution by indictment, they shall abstain from adjudication thereon, and deal with the case as if they had no authority finally to hear and determine it. And nothing contained in the Act shall authorize the justices to hear and determine any case in which any question shall arise as to title, bankruptcy, or execution under process of court (see sect. 46).

(b) If the justices shall so think fit, the offender shall be bound to keep the peace and be of good behaviour for any period not exceeding six months from the expiration of such sentence.

Offence.	Reference to Consolidation Acts.	Reference to previous Acts.	Fine not exceeding } or { Imprisonment not exceeding.
<p><b>COINAGE OFFENCES.</b> To tender, utter or put off any gold, silver, or copper coin defaced by having stamped thereon any names or words . . . . . to have in custody or possession any greater number than five pieces of counterfeit foreign coin . . . . .</p>	<p>24 &amp; 25 Vict. c. 99, s. 17 . . . . . " " s. 23 {</p>	<p>16 &amp; 17 Vict. c. 102, s. 2 . . . . . { 37 Geo. 3, c. 126, s. 6 43 Geo. 3, c. 139, s. 6</p>	<p>£2 £2 and not less than 10s. for every piece, and forfeiture of the value of the counterfeit.</p>
<p><b>DEER.</b> To course, hunt, snare, carry away, kill or wound any deer kept or being in the uninclosed part of any forest, &amp;c.) second offence indictable. being found in possession of any deer, or the head, skin, &amp;c., or any snare for taking, and not satisfactorily accounting) to set or use any snare or engine for taking) deer in any part of any forest, &amp;c., in- closed or not, or destroying any fence) of land where deer kept . . . . .</p>	<p>24 &amp; 25 Vict. c. 96, s. 12 . . . . . " " s. 14 { " " s. 15 . . . . .</p>	<p>7 &amp; 8 Geo. 4, c. 29, s. 26 { 7 &amp; 8 Geo. 4, c. 29, s. 27 14 &amp; 15 Vict. c. 92, s. 4</p>	<p>£50 £20 £20</p>
<p><b>Dog, bird, beast or other animal, not being cattle, but being either the subject of larceny at common law, or being ordinarily kept in a state of confinement or for any domestic purpose.</b> To kill,</p>	<p>24 &amp; 25 Vict. c. 97, s. 41 {</p>	<p>Framed from 7 &amp; 8 Geo. 4, c. 29, s. 31</p>	<p>£20, V. { 6 mos. with or without hard labor.</p>



SUMMARY CONVICTIONS.

DESCRIPTION	ACT	SECTION	CONVICTION	SENTENCE
second offence, indictable. having in possession any stolen dog or skin	" " " "	s. 19	{ 8 & 9 Vict. c. 47, s. 3	£20
			{ 14 & 15 Vict. c. 92, s. 5	
Dove, killing, &c.—See "Pigeon."	" " " "	" " " "	{ 7 & 8 Geo. 4, c. 29, s. 40	£5, V.
			{ 14 & 15 Vict. c. 92, s. 5	
FENCE, live or dead, or any post, pale, wire or rail set up as a fence, or any stile or gate. To steal or to cut, break or throw down with intent to steal ..	" " " "	" " " "	{ 7 & 8 Geo. 4, c. 29, s. 41	£2, V.
			{ 14 & 15 Vict. c. 92, s. 4	
second offence ..	" " " "	" " " "	{ 7 & 8 Geo. 4, c. 30, s. 23	£5, V.
			{ 14 & 15 Vict. c. 92, s. 3	
being found in possession of or having on the premises any part of such stolen fence, &c. of the value of one shilling, and not satisfactorily accounting for same ..	" " " "	" " " "	{ 7 & 8 Geo. 4, c. 29, s. 41	£2, V.
			{ 14 & 15 Vict. c. 92, s. 4	
to cut, break, throw down or destroy any fence, wall, stile or gate ..	" " " "	" " " "	{ 7 & 8 Geo. 4, c. 30, s. 23	£5, V.
			{ 14 & 15 Vict. c. 92, s. 3	
second offence ..	" " " "	" " " "	{ 7 & 8 Geo. 4, c. 29, s. 67	£20
			{ 8 & 9 Vict. c. 47, s. 8	
FINE, non-payment of, either immediately after conviction or within such period as the justice shall appoint ..	" " " "	" " " "	{ 14 & 15 Vict. c. 93, s. 22	£20
			{ 7 & 8 Geo. 4, c. 30, s. 33	
if penalty and costs do not exceed 5 <i>l.</i> ..	" " " "	" " " "	{ 14 & 15 Vict. c. 93, s. 22	£20
			{ 7 & 8 Geo. 4, c. 30, s. 33	
" " " " ..	" " " "	" " " "	{ 14 & 15 Vict. c. 93, s. 22	£20
			{ 7 & 8 Geo. 4, c. 30, s. 33	
in any other case ..	" " " "	" " " "	{ 14 & 15 Vict. c. 93, s. 22	£20
			{ 7 & 8 Geo. 4, c. 30, s. 33	

{ 12 mos. and hard labor.

{ 12 mos. and hard labor.

{ with or without hard labor, determinable on payment

Offence.	Reference to Consolidation Acts.	Reference to previous Acts.	Fine not exceeding.	Imprisonment or exceeding.
<b>FISH.</b> To take or destroy (or attempt) any fish in any water which shall be private property, or in which there shall be any private right of fishery, but which shall not run through or be in land adjoining or belonging to the dwelling-house of any person being the owner of such water, or having right of fishery ..	24 & 25 Vict. c. 96, s. 24	7 & 8 Geo. 4, c. 29, s. 34 5 & 6 Vict. c. 106, ss. 79, 80 (1.) 11 & 12 Vict. c. 92, ss. 22, 41 (1.)	£5, V.	
to take, &c. by angling between the beginning of the last hour before sunrise and the expiration of the first hour after sunset, any fish in any water which is private property, or, &c. and which shall run through, &c. ..	" " " "	" " " "	£5	
the like, in any water which is private property, or, &c., but which shall not run through, &c. ..	" " " "	" " " "	£2	
<b>FRUIT.</b> To steal or destroy.—See "Vegetable Production."				

between the setting of the last hour before sunrise and the expiration of the first hour after sunset; or to any snare or engine therein, at any time .. .. .	24 & 25 Vict. c. 96, s. 17 ..	7 & 8 Geo. 4, c. 29, s. 30 ..	£5	
MALICIOUS INJURY to any real or personal property for which no punishment provided either upon indictment or summary conviction .. .. .	24 & 25 Vict. c. 97, s. 52	{ 7 & 8 Geo. 4, c. 30, s. 24 14 & 15 Vict. c. 92, s. 3	£5 and reasonable compensation for injury not exceeding £5, and if not paid, Impr. with or without hard labour not exc. 3 months.	2 months with or without hard labour.
PIGEON OR HOUSE DOVE. To kill, wound or take under such circumstances as shall not amount to larceny at common law .. .. .	24 & 25 Vict. c. 96, s. 23 ..	7 & 8 Geo. 4, c. 29, s. 33 ..	£2, V.	
RABBIT. To take or kill.—See "Hare."				
RECEIVER of any property, the stealing or taking whereof is by the "Larceny" Act punishable on summary conviction	24 & 25 Vict. c. 96, s. 97 ..	7 & 8 Geo. 4, c. 29, s. 60 ..		Same as principal.
ROOTS. To steal or destroy.—See "Vegetable Production."				
SEAMEN. To hinder in trade, &c.—See "Assaults."				

Offence.	Reference to Consolidation Acts.	Reference to previous Acts.	Fine not exceeding } or { Imprisonment not exceeding.
<p><b>SHIPWRECK.</b>                      being found in possession of or having on the premises any goods belonging to any ship in distress, &amp;c., and not satisfactorily accounting for same . . . .                      not appearing, upon being summoned, and satisfying the justice of the lawful possession of any such goods which shall have been offered or exposed for sale, and seized as suspected . . . .</p>	<p>24 &amp; 25 Vict. c. 96, s. 65 {                      " " s. 66 {</p>	<p>{ 7 &amp; 8 Geo. 4, c. 29, s. 19 }                      { 14 &amp; 15 Vict. c. 92, s. 4 }                      { 7 &amp; 8 Geo. 4, c. 29, s. 20 }                      { 14 &amp; 15 Vict. c. 92, s. 4 }</p>	<p>{ £20, V. }                      { 6 mos. with or without hard labor. }                      { £20, V. }                      { 6 mos. with or without hard labor. }</p>
<p><b>TELEGRAPH, electric or magnetic.</b>                      (a) to cut, break, throw down, destroy, injure or remove any battery, machinery, wire, cable, post or other thing belonging to,—or to prevent or obstruct the sending, &amp;c., of any communication attempt of the like . . . .</p>	<p>24 &amp; 25 Vict. c. 97, s. 37 . . . .                      " " s. 38 . . . .</p>	<p>.. .. .                      .. .. .                      .. .. .</p>	<p>{ £10 }                      { 3 mos. with or without hard labor, }</p>
<p><b>TREE,</b> sapling, shrub or underwood, where-soever the same may be growing, the stealing or injury being to the amount of a shilling at least.</p>	<p>7 &amp; 8 Geo. 4 c. 99, s. 39</p>	<p>.. .. .</p>	<p>.. .. .</p>

<p>destruction of property .. .. .</p>	<p>.. .. .</p>	<p>.. .. .</p>	<p>14 &amp; 15 Vict. c. 92, s. 3</p>	<p>or without hard labor, 12 mos. and hard labor.</p>
<p>second offence in either case .. .. .</p>	<p>.. .. .</p>	<p>.. .. .</p>	<p>.. .. .</p>	<p>£20, V.</p>
<p>third offence in either case indictable, being found in possession of, or having on the premises, any part of any tree, &amp;c., of the value of one shilling, and not satisfactorily accounting for same .. .. .</p>	<p>24 &amp; 25 Vict. c. 96, s. 35</p>	<p>.. .. .</p>	<p>7 &amp; 8 Geo. 4, c. 29, s. 41 14 &amp; 15 Vict. c. 92, s. 4</p>	<p>£2, V.</p>
<p>VEGETABLE PRODUCTION.</p>				
<p>to steal, or to destroy or damage with intent to steal, any plant, root, fruit or vegetable production growing in any garden, orchard, &amp;c. .. .. .</p>	<p>.. .. .</p>	<p>.. .. .</p>	<p>7 &amp; 8 Geo. 4, c. 29, s. 42 14 &amp; 15 Vict. c. 92, s. 5</p>	<p>6 mos. with or without hard labor.</p>
<p>to destroy the like, or to damage with intent to destroy .. .. .</p>	<p>.. .. .</p>	<p>.. .. .</p>	<p>7 &amp; 8 Geo. 4, c. 30, s. 21 14 &amp; 15 Vict. c. 92, s. 3</p>	<p>£20, V.</p>
<p>second offence in either case indictable.</p>	<p>.. .. .</p>	<p>.. .. .</p>	<p>.. .. .</p>	<p>£1, V.</p>
<p>to steal, &amp;c., any cultivated root or plant used for food, medicine, distilling, dyeing or manufacture, and growing in any land, open or inclosed, not being a garden, orchard, pleasure ground or nursery .. .. .</p>	<p>.. .. .</p>	<p>.. .. .</p>	<p>7 &amp; 8 Geo. 4, c. 29, s. 43 14 &amp; 15 Vict. c. 92, s. 5</p>	<p>1 mo. with or without hard labor.</p>
<p>to destroy, &amp;c., the like .. .. .</p>	<p>.. .. .</p>	<p>.. .. .</p>	<p>7 &amp; 8 Geo. 4, c. 30, s. 22 14 &amp; 15 Vict. c. 92, s. 3</p>	<p>and in default of payment imprisonment, with or without hard labor, not exc. one month.</p>

(a) This offence is also indictable, and may be heard and determined summarily or otherwise, at the discretion of the justice. See title in Table of Indictable Offences.

Offence.	Reference to Consolidation Acts.	Reference to previous Acts.	Fine not exceeding } or { Imprisonment not exceeding.
<p>VEGETABLE PRODUCTION—<i>continued</i>.                      second offence in either case .. ..</p> <p>WALL.                      to destroy any.—See "Fence."</p> <p>WHEAT, &amp;c.                      assault in connection with sale of.—See                      "Assaults."</p>	<p>.. ..</p>	<p>.. ..</p>	<p>.. ..</p> <p>6 mos. and                      hard labor.</p>

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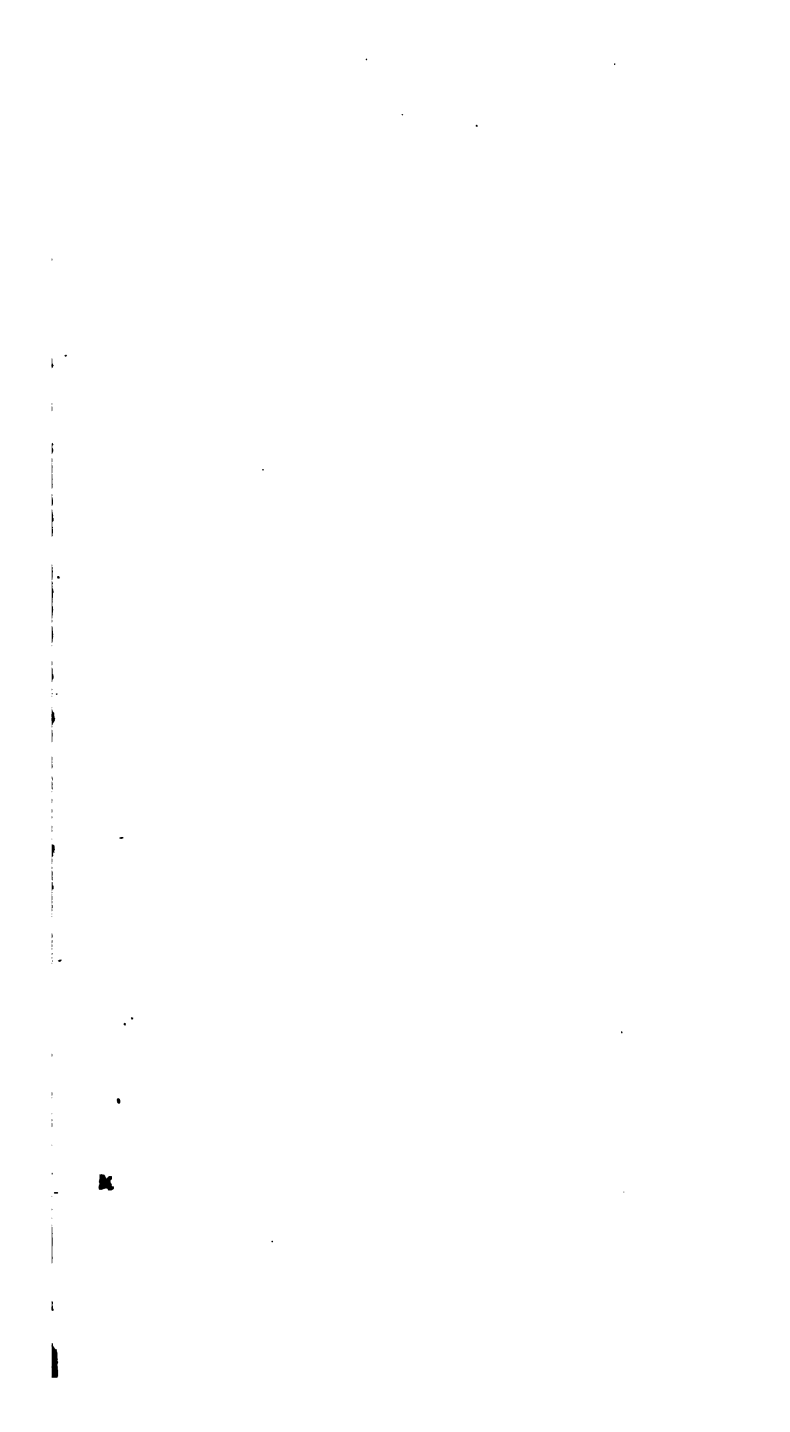
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